

ADVERSARIAL HEARING

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State of New Hampshire

RSA 162-H Energy  
Facility Site Evaluation  
Committee (EFSEC)

In re: Amended Application  
of Portland Natural Gas  
Transmission System (PNGTS)  
For an Energy Facility  
Certificate

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TUESDAY, JUNE 24, 1997

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## 1 P R O C E E D I N G S

2 CHAIRMAN VARNEY: My name is Bob Varney. I'm  
3 Commissioner of the Department of Environmental Services and  
4 Chairman of the Site Evaluation Committee. I would like to  
5 continue with the adversarial hearing for the Portland Natural  
6 Gas Transmission System and Maritimes & Northeast Pipeline  
7 project proposal, SEC docket 96-01. We have a tradition of  
8 giving the public an opportunity to make comments at the  
9 beginning and end of each day. I understand that the Town  
10 Manager of Gorham is with us here today. Is Bill Jackson  
11 present? Would you like to say a few words?

12 MR. JACKSON: Anywhere in particular? Can you  
13 hear me if I speak from here?

14 CHAIRMAN VARNEY: Could you perhaps come up to  
15 the blue seat? Thank you.

16 MR. JACKSON: Mr. Chairman and Members of the  
17 Committee, I thank you for allowing me to come here today and  
18 speak to you and I will tell you that as soon as I finish I will  
19 return to the beautiful North Country, where it is not quite so  
20 humid. I have handed out to members of the Committee a copy of  
21 what I will say, so -- and I will not divert from that  
22 statement. Hopefully, it will make note taking and transcript  
23 easier. I would like to have the following entered into the  
24 transcript for today's hearing: The Town of Gorham supports the

1 use of existing right-of-ways for the location of the Portland  
2 Natural Gas Transmission System through the Towns of Gorham and  
3 Shelburne. The Board of Selectmen has long been a supporter of  
4 the proposal to bring natural gas through the North Country.  
5 However, our concerns mirror those of our sister community,  
6 Shelburne. Under the original proposal presented to the Town by  
7 representatives of PNGTS in 1996, the line would traverse our  
8 town primarily through an existing right-of-way, which currently  
9 contains a natural gas and oil pipeline. A slight diversion was  
10 proposed on the easterly side of Gorham in order to avoid a  
11 densely populated area but that diversion would join, once  
12 again, with the existing right-of-way and continue through the  
13 town of Shelburne. The overall impact to Gorham would be minor  
14 in comparison to the proposed alternate routing since virtually  
15 no new landmass would be disturbed. Although the developer has  
16 voiced a concern about using this originally proposed route, the  
17 testimony supplied to the Energy Facility Site Evaluation  
18 Committee by PNGTS states that, quote, "One of the central  
19 purposes of PNGTS's public outreach/notification program has  
20 been to identify and assess concerns raised by municipal and  
21 regional planning and governing bodies regarding the impact of  
22 PNGTS on the orderly development of the regions." Further it  
23 states, quote, "PNGTS has demonstrated a concerted interest in  
24 working with municipal and regional officials and others

1 interested in the proposed route," unquote. While this was true  
2 for the original proposal between Portland and Montreal through  
3 Vermont, no one from the company has contacted the Town of  
4 Gorham personally concerning the alternate routing and its  
5 impacts on our town. Again from their own testimony, "The use  
6 of existing rights-of-way avoids the necessity of disturbing  
7 otherwise virgin land," unquote. "Reducing, quote again,  
8 "adverse land use effects throughout construction and  
9 maintenance of the pipeline. It will parallel existing rights  
10 of way to the maximum extent possible," unquote.

11 The Haley & Aldrich report recently filed with the  
12 Office of the Attorney General, State of New Hampshire, compares  
13 the various alternatives for routing through Gorham and  
14 Shelburne and concludes that when all of the criteria is  
15 considered there is quote, "no clear winner", unquote. This  
16 brings into question the claim by PNGTS that the costs for  
17 routing through the existing right-of-way in Gorham and  
18 Shelburne would be prohibitive.

19 In conclusion, and in light of the claim made by PNGTS  
20 in their testimony concerning, quote, "an interest with working  
21 with municipal and regional officials," unquote, the North  
22 Country Council, a regional planning council, in their filed  
23 testimony submitted to this Committee concluded, quote, "Given  
24 our preference for using the existing rights-of-way wherever

1 possible, our significant concern for the applicant's scoring  
2 methodology, the under-rated visual impacts, landowner concerns,  
3 and inconsistency with Shelburne's Master Plan, we cannot  
4 support the applicant's preferred route through Shelburne and  
5 ask the Site Evaluation Committee to approve either of the  
6 Gorham Alternatives," unquote.

7           The Town of Gorham would likewise prefer to see the  
8 utilization of the existing right-of-way through our town. I  
9 would like to thank the Committee for its time and  
10 consideration. Again, my name is William Jackson, Town Manager,  
11 Gorham, New Hampshire. Thank you, Mr. Chairman.

12           MR. ELLSWORTH: Mr. Jackson, may I ask a  
13 question? In the beginning of your comments you mentioned the  
14 diversion in Gorham.

15           MR. JACKSON: Correct.

16           MR. ELLSWORTH: Do you support that diversion?

17           MR. JACKSON: Yes.

18           MR. ELLSWORTH: Thank you.

19           CHAIRMAN VARNEY: Thank you. Any other members  
20 of the public? Mrs. Lamm.

21           MS. LAMM: I have rebuttal. I know what you're  
22 telling me, keep it short.

23           CHAIRMAN VARNEY: Because I know you too well.

24           MS. LAMM: You know me so well, but I'm going to

1 tell you I heard so many outrageous statements here yesterday  
2 that I have to touch upon and I don't like taking your time, but  
3 I feel it's important to know. Do I need this? I hear  
4 myself ---

5 MR. IACOPINO: It's being recorded Mrs. Lamm, so  
6 we'd like you to use the microphone.

7 MS. LAMM: Oh, I'm sorry about that.

8 CHAIRMAN VARNEY: Just hold it about four feet  
9 from her.

10 MS. LAMM: When Mr. Wilber, the easement  
11 right-of-way agent, was asked if they notified us, and this was  
12 a big thing yesterday, when they asked -- they were asked --  
13 when they trespassed on our terraced land Attorney Kruse told  
14 the Committee they could not contact us because we lived in New  
15 York, yet Mr. Wilber, when asked, said they received four  
16 letters from us, our New York and Stratford addresses and phone  
17 numbers were on all correspondence, and I believe this can be  
18 borne out by people who have received it. We even had a fax  
19 number on correspondence to Commissioner Varney and all papers  
20 were exchanged. In fact, at its inception last year, a PNGTS  
21 agent left a phone message at my daughters machine. She lives  
22 next door to us in Stratford and we immediately called them  
23 right back. We did not give permission for an easement. The  
24 Attorney Gallagher, through Mr. Flumerfelt, I'm sorry, sent us a

1 fax on June 19th in reference to meeting on Friday, which I  
2 believe was in Shelburne. They even sent us a deed with return  
3 receipt requested, offering us \$450.00 per acre. The deed never  
4 mentioned the telecommunication lines. We did not sign the  
5 deed. Obviously, since they knew for one year how to contact  
6 us, could this omission be a cover up for their transgressions  
7 and trespassing? I think so and I had to touch upon that.  
8 Besides, had they done their homework, they would have found  
9 that my husband's permanent residents in North Stratford. He is  
10 a registered voter in the Town of Stratford. He votes in  
11 Stratford in the general elections in November. He has a pickup  
12 registration and license in the State of New Hampshire and has  
13 been a voting resident for fourteen years. I have an address in  
14 New York as my children reside there and we spend our holidays  
15 with them and in Stratford the rest of our time. Stratford also  
16 has our address on the tax bill. We get a tax bill from them  
17 twice a year and I'm sure it was very simple to find out how to  
18 contact us. Now, a Wausau representative said they were bound  
19 under a legal contract. They also said they had other  
20 alternatives for fuel but it was too expensive. If the pipeline  
21 is rerouted, would not the contract be void, since it was beyond  
22 Wausau's control? And since Wausau would not be receiving any  
23 services and if it is too expensive for Wausau, how much more  
24 expensive are the losses to the taxpayers and landowners who can

1 less afford it and are locked into it forever against their  
2 will?

3           It was also stated that Wausau has an environmental  
4 emissions problem. How much greater would the environmental  
5 impact to the entire Northern Region from which everyone would  
6 have to suffer for generations to come if the pipeline were  
7 installed? Why rob Peter to pay Paul? A twenty year life of  
8 the pipeline was mentioned. We ask, what happens to the  
9 pipeline, the easement right-of-way, after the twenty year  
10 period? The private property owners will sustain permanent loss  
11 environmentally and financially, while PNGTS can make more  
12 profit from it by selling their easements, perhaps to an  
13 undesirable entity, at the private property owners, their  
14 children, grandchildren, and future generation's expense.

15           The statement was made that PNGTS surveyors were not  
16 always sure where the property lines were and so they took  
17 liberties and their excuse is, "we didn't know". Do you mean to  
18 tell me that when a surveyor leaves a known easement and then  
19 traverses up a 350 foot embankment into terraced land where  
20 there are no easements, no power lines, that the surveyor  
21 doesn't know he's lost his route? What kind of surveyors does  
22 PNGTS hire? Are our governments supposed to make decisions  
23 based on responses of "I don't know" and expect all of us to  
24 believe this? Then, I'm sorry, Mr. Sleck (sic), I'm not sure

1 how his name is spelled nor pronounced, said their pipeline  
2 would not be in the aquifer, as they were going down seven feet  
3 and the aquifers were below and deep. I refer you again to my  
4 Exhibits B-1 and B-2, the U.S. Geological report on the SR-4  
5 well site on our terraced land. It shows the land survey's  
6 elevation on the terrace as 910 feet. Depth to the water table  
7 is 49 feet. Height of the terrace from the base is 45 feet  
8 deep. The pipeline buried at 7 feet below 45 feet, places it 3  
9 feet below the water table into the sand and gravel aquifer and  
10 below the surface water of the Connecticut River. These  
11 aquifers are constant throughout the natural section of both  
12 sides of the river, New Hampshire and Vermont. If this pipeline  
13 is allowed in the northern tier, it would create so great a  
14 disturbance to the ecology it would be irreversible and would be  
15 a violation of the National Environmental Policy Act. If the  
16 pipeline is allowed in the natural section, it would be in  
17 violation of the New Hampshire Rivers Protection Act by the New  
18 Hampshire legislature, which states that it must be guarded,  
19 protected and kept in its natural state in perpetuity. If the  
20 pipeline is allowed to disturb the wildlife habitat and scenic  
21 beauty it will violate Federal Silvio-Conte Act, which was  
22 created to preserve and protect these areas in the northern  
23 tier. If the pipeline is allowed in this northern tier it will  
24 violate and has already violated the trespassing inhabitants of

1 the northern tier.

2           It was stated PNGTS would reimburse the property  
3 owners for the value of the trees. Who can place a value on  
4 trees of 40 inches in diameter, a height of a hundred feet? We  
5 don't want our trees cut. These are nature trails and are there  
6 for future generations to enjoy. The pipeline would destroy our  
7 nature trails forever. This pipeline, by its installation would  
8 be a mental barrier, discouraging the public freedom of access  
9 to the river for recreation and enjoyment. It would also deny  
10 us on our own property freedom of access to the river and our  
11 nature walkways and trails and would discourage all water winter  
12 and summer recreation in the corridor.

13           And a suggestion, the natural gas is in Canada, PNGTS  
14 is in Maine, it is a business proposition between Canada and  
15 PNGTS. Let them go in a direct line across Canada to Maine,  
16 without disrupting, disturbing, destroying New Hampshire and  
17 everybody will be happy and we can all go home. Thank you.

18           CHAIRMAN VARNEY: Thank you, Mrs. Lamm.

19           MS. LAMM: Was that short enough?

20           CHAIRMAN VARNEY: That was terrific.

21           MS. LAMM: Thank you.

22           CHAIRMAN VARNEY: For you especially. Thanks.

23 Now, yesterday we had testimony from Mr. Trettel, I believe and  
24 are we ready for the cross examination?

1 MR. KRUSE: We're not finished with the direct  
2 examination.

3 CHAIRMAN VARNEY: Oh, okay.

4 MR. KRUSE: Mr. Chairman, I would propose to  
5 start this morning with Mr. Truttel, to do a little bit of house  
6 keeping and that's to go through some of these exhibits,  
7 identify them and explain briefly what they're here for, because  
8 they may not all have been touched upon in detail and I'm not  
9 sure they need detail except perhaps in the context of further  
10 questions by the Committee.

11 J. ROGER TRETTEL

12 DIRECT EXAMINATION - CONTINUED

13 By Mr. Kruse:

14 Q. First of all, Mr. Trettel, with respect to the folder  
15 marked Exhibit 3, it's identified as "Selected Tables,  
16 PNGTS North". I've indicated on the exhibit list that some  
17 are from federal filings. Would you just explain to the  
18 Committee briefly what tables are in there and which ones  
19 represent updated tables from those that were originally  
20 filed with the EFSEC application and why they have been  
21 updated.

22 A. Exhibit 3 contains a table of public land and designated  
23 recreation and scenic or other areas diversified by  
24 revision, northern New Hampshire revision.

1 Q. Is that an update from the original filing?

2 A. No. This is an original. It also contains a table on  
3 "Anticipated Impacts of Conservation Easements and Other  
4 Conservation Lands Traversed by the Revision".

5 Q. And what's the purpose of putting these tables together?

6 A. To identify public lands, recreational areas, other -- and  
7 conservation lands that would be crossed by the project, so  
8 that we can develop mitigation as necessary.

9 Q. All right. Go on.

10 A. This also contains a list of municipalities crossed by the  
11 revision and the length that we crossed and the percentage  
12 crossed. It also contains a list of access roads that will  
13 be necessary for construction of the pipeline and contains  
14 a table of fisheries crossed, fisheries identified by the  
15 State of New Hampshire as having significance for fishery  
16 resources and also it contains a list of significant  
17 wildlife habitat identified through correspondence from the  
18 New Hampshire Fish and Game and New Hampshire DES.

19 Q. Now, to your knowledge are all the tables that are in  
20 Exhibit 3 updated with the most current information?

21 A. No. The last table, "Significant Wildlife Habitats," we  
22 conducted detailed deer wintering surveys this past winter  
23 and the majority of the significant wildlife habitat are  
24 deer wintering areas that have been identified as

1 potential. In northern New Hampshire, the Fish and Game  
2 has not conducted detailed surveys of all of these areas,  
3 so they identified on this as potential. We conducted  
4 detailed field surveys in conjunction with Mr. Will Staats  
5 of Fish and Game this winter and confirmed the majority of  
6 these as being active deer wintering areas.

7 Q. Have you prepared a separate report on deer wintering  
8 areas?

9 A. Yes, we have.

10 Q. And I'll show you that exhibit in a bit. Now I show you  
11 Exhibit 3-A. Will you tell the Committee what is in there  
12 and why it is there.

13 A. The first table is a breakdown of land uses crossed by the  
14 project, this is on the Joint Pipeline Project in the south  
15 and it breaks down the different cover types crossed,  
16 agricultural, forest, open land, residential,  
17 industrial/commercial, and open water, give the mileage and  
18 percent crossed.

19 Q. Is that an updated table from the original file?

20 A. No, sir.

21 Q. Well, that comes from Resource Report 8?

22 A. That's correct.

23 Q. What is Resource Report 8?

24 A. Resource Report 8 is one of the resource reports provided

1 to the FERC as part of the FERC process.

2 Q. This also contains a table, "Public Land and Designated  
3 Recreation, Scenic and Other Areas Traversed by the Joint  
4 Pipeline Project," similar to the table we prepared for  
5 northern New Hampshire. It contains a table of "Acreage  
6 Affected by Construction and Operation of the Joint  
7 Pipeline Project," broken down by the various cover types,  
8 agriculture, forest, open land, residential and  
9 industrial/commercial and open water. Does that also come  
10 from a resource report?

11 A. Yes.

12 Q. So that would be different from the original chart if there  
13 was one in the application?

14 A. It may be slightly different. The resource reports were  
15 filed shortly after the EFSEC filing in February. These  
16 numbers are probably very similar to what was filed with  
17 EFSEC. I'd have to check each number. Basically nothing  
18 changed between the EFSEC application and the FERC  
19 application, so the numbers should be the same. It also  
20 contains a table of "Additional Temporary Work Space  
21 Areas," required for the construction of the Joint Pipeline  
22 Project by mile post. It describes what the extra work  
23 space is required for and the dimensions.

24 The last table is the table of, "Access Roads Required

1 for Construction of the Joint Pipeline Project". That too  
2 is filed with the FERC. For the most part this is the most  
3 updated information. I believe we have made -- may have  
4 added a couple of access roads in Massachusetts.

5 One more table, "Fisheries of Special Concern Crossed  
6 by the Joint Pipeline Project in Southern New Hampshire,"  
7 and that is based on data provided by New Hampshire Fish  
8 and Game and this list is the most recent.

9 Q. Now, there was a reference yesterday to the FERC DEIS. I  
10 want to make sure we have the right documents here as  
11 Exhibit 7. Would you identify that for us, please.

12 A. This is the PNGTS/Maritime Phase 1 Joint Facilities  
13 Project, Draft Environmental Impact Statement April, 1997.

14 Q. And what does that relate to, the north or the south  
15 portion?

16 A. This relates to the southern portion.

17 Q. The date on that?

18 A. April 1997.

19 Q. And I'll show you Exhibit 7-A?

20 A. This is the PNGTS project and PNGTS/Maritime Phase 2 Joint  
21 Facilities project draft Environmental Statement, dated  
22 June 1997.

23 Q. And this addresses the northern portion?

24 A. I believe, including the Groveton Highway.

1 Q. Had there been applications filed with the United States  
2 Army Corps of Engineers?

3 A. Yes, there have.

4 Q. Do those applications contain a table of information that  
5 is relevant to the EFSEC determination here?

6 A. Yes. It contains the tables of "Wetlands and Streams  
7 Crossings".

8 Q. I'll show you what was been marked as Exhibit 8. Can you  
9 tell us what this is and what it contains?

10 A. This is the amendment to an application for a permit for  
11 Section 10 of the Rivers and Harbors Act of 1899 and  
12 Section 404 of the Clean Water Act prepared for the U.S.  
13 Army Corps of Engineers. This is for the Northern New  
14 Hampshire revision.

15 Q. And what information does it contain about wetlands and  
16 water bodies it crosses?

17 A. It contains a complete -- it contains a description of our  
18 methodologies for identifying wetlands and streams and  
19 listing of jurisdictional wetlands and streams crossed by  
20 the proposed project, based on field surveys and in  
21 addition, it includes a narrative describing the  
22 vegetation, soils, and hydrology of each of the wetlands  
23 crossed by the project.

24 MR. IACOPINO: Mr. Chairman, may I interject a

1 question? Was that previously distributed to all the members?

2 MR. KRUSE: To all the Committee? The one that I  
3 just showed him, yes. This was in response to Public Counsel  
4 data request of April 28, 1997. On the next one that I --

5 THE WITNESS: May I clarify? This contains  
6 information for all areas of the pipeline that we had access to.  
7 There is approximately 3 1/2 to 4 miles where we didn't have  
8 permission. We were unable to conduct our field surveys.

9 MR. IACOPINO: But is that contained in the  
10 answers to data requests?

11 MR. KRUSE: That particular document, yes, but  
12 there is a second document that I'm about to bring out that I  
13 didn't get at that time and I'd have to check our correspondence  
14 to see whether or not we supplied it to the Committee members,  
15 because I frankly don't remember.

16 MR. RICHARDSON: What's the exhibit number?

17 MR. KRUSE: The exhibit number I just referred to  
18 was the Amendment to Application for U.S. Army Corps, that's  
19 Exhibit 8.

20 Q. Exhibit 8-A is a two volume set, May 1997, U.S. Army Corps  
21 of Engineer 404/10 Permit Application. Can you tell what  
22 that is and what it contains?

23 A. This is a similar Army Corps of Engineer Section 404/10  
24 Permit Application prepared for the Joint Pipeline Project

1           and this addresses the same wetland stream issues for the  
2           southern portion of the route.

3    Q.    Does this contain what is called "Wetland Delineation  
4           Reports"?

5    A.    Yes, it does.

6    Q.    Has that information previously been supplied in connection  
7           with our application filings with the EFSEC?

8    A.    Yes, it has.

9    Q.    And is this updated?

10   A.    This has some additional information based on some  
11          additional field work we were able to perform this season,  
12          this spring, but it was largely the same as when they did  
13          the filing.

14   Q.    What does the acronym LEDPA stand for?

15   A.    I believe it's a term that the U.S. Army Corps of Engineers  
16          uses.  It refers to "least environmentally damaging  
17          practicable alternative".

18   Q.    And under what circumstances is that designation provided?

19   A.    The Corps of Engineers uses that as part of their highway  
20          methodology for sighting linear projects and they define  
21          LEDPA essentially as the route which has the least  
22          environmentally damaging -- is the least environmentally  
23          damaging practical alternative.

24   Q.    And what do you have in your hand that is marked as Exhibit

1 9?

2 A. These are our letters from the U.S. Army Corps of Engineers  
3 documenting that they consider PNGTS proposed alignment --  
4 where we are parallel and adjacent to existing corridors to  
5 be the LEDPA, the least environmentally damaging practical  
6 alternative.

7 Q. And for what portion of the proposed route?

8 A. There are several letters in here. The first one is a  
9 letter to Mr. Thomas Dunn from William Lawless the Chief of  
10 the Regulatory Division and this addresses the northern  
11 portion of the -- well, it addresses the Portland to Canada  
12 natural gas pipeline. This is an original version of the  
13 PNGTS project and it confirms that where we are following  
14 existing corridors, that we are the LEDPA. The second  
15 letter is also from William Lawless and it basically  
16 confirms that for the southern portion of the route,  
17 wherever we are paralleling existing corridors, that  
18 constitutes the LEDPA and then the -- there's another  
19 letter from William Lawless, essentially agreeing that the  
20 proposed route that is in the draft DIS meets their  
21 criteria as an acceptable route and there were several  
22 alternatives that were identified in the DIS that they  
23 should -- that the Corps will continue to evaluate.

24 Q. Now, I want to show you what we've premarked as Exhibit 12

1 and there are some resumes in here, including those of  
2 people with your staff. Would you just very briefly tell  
3 the Committee, with the use of these resumes, who with NEA  
4 has been working on this project and what their particular  
5 role has been.

6 A. The first one here is Robin Kim. She is a senior  
7 environmental scientist. She has been responsible for our  
8 field program, managing our field crews, and responsible  
9 for the Threatened and Endangered Species Survey program.  
10 She also was the project manager for our joint FERC filing  
11 for the Joint Pipeline Project. Next it is Wayne Harper,  
12 P.E., Professional Environmental Engineer. He's been  
13 responsible for providing expertise regarding water  
14 resources and other issues regarding assigned construction  
15 methodologies and responding to data requests from an  
16 engineering perspective. There's my resume. I discussed  
17 my background yesterday.

18 Q. Steve Compton should be in there.

19 A. And there's Steve Compton, he's a project manager. He was  
20 the project manager for the preparation of the EFSEC filing  
21 in Northern New Hampshire, as well as the EFSEC filing for  
22 the Joint Pipeline Project. And Sandra Lare she has been  
23 the Assistant Field Environmental Coordinator, working in  
24 the PNGTS office. She's been involved with numerous data

1 responses, coordinating with agencies, coordinating with  
2 the field crews. That's all the NEA staff in here.

3 Q. Now, I want to refer you to Exhibit 21. Yesterday we  
4 identified 21-A as containing diversion analyses and  
5 alternative discussions with respect to Shelburne in  
6 particular. I want to refer you, however, to Exhibit 21  
7 and ask you what this contains?

8 A. This contains diversion assessments and raw data for the  
9 various alternatives that were evaluated in Northern New  
10 Hampshire.

11 Q. Can you give us some examples of what alternatives are  
12 addressed in this material?

13 A. This looks at a diversion in the Colebrook -- well, it  
14 evaluates kind of a large overall routing alternative  
15 between Colebrook and Shelburne. It evaluates an  
16 alternative from Colebrook to Groveton, which would have  
17 paralleled a railroad corridor. It evaluates a diversion  
18 between Groveton and Berlin and essentially compares the --  
19 our proposed route with a proposed route parallel to  
20 Highway 110.

21 Q. When you're referring to "raw data" that's contained in  
22 this exhibit, what do you mean?

23 A. The "raw data," we've identified a number of environmental,  
24 engineering and land use constraints associated with each

1 of the alternatives and I can list off some of them; the  
2 total length the number of national wetlands inventory  
3 crossings, wetland crossings, intermitent stream crossings,  
4 perennial stream crossings, water body crossings and then a  
5 number of the engineering constraints, cross-overs, road  
6 crossings, construction difficulties, and land use  
7 constraints residences within 50 feet from schools,  
8 churches, parks -- and schools churches and parks and the  
9 raw data essentially lists the actual data with regard to  
10 those parameters.

11 Q. All right. I'm going back to Exhibit 5 in an area about  
12 which the Committee has some interest based upon some  
13 questions yesterday and Exhibit 5 contains what?

14 A. This is a shoreline protection certification and a request  
15 for a variance regarding the clearing within the -- as  
16 necessary, adjacent to large water bodies in particular --  
17 in particular the Piscataqua and Squamscott Rivers, this is  
18 for the southern portion of the route.

19 Q. Is there a document here for the northern portion of the  
20 route as well?

21 A. Yes, there is similar -- certification shoreline protection  
22 certification with a request for a waiver for clearing near  
23 the Connecticut River crossing and the Androscoggin River  
24 and the Upper Ammonoosuc River.

1 Q. Taking them individually, that is north and south, would  
2 you explain to the Committee, please, the issue that's  
3 addressed by the shoreline protection certificate and the  
4 basis for the request for a waiver.

5 A. Well, it would be easiest to read the variance request.  
6 "Because of the extensive environmental review and  
7 consideration to be undertaken under laws applicable to the  
8 siting construction of natural gas pipelines, it is  
9 anticipated that such siting and construction would be  
10 consistent with the intent and purpose of the Shoreline  
11 Protection Act. Because of the linear nature of natural  
12 gas pipeline construction and the safety demands associated  
13 here with strict adherence with all requirements of RSA  
14 483-B is impossible, therefore, the applicants respectfully  
15 request a variance pursuant to the RSA 483-B 9(g) from the  
16 following provisions," and we talk about the requirement  
17 that primary structures be set back 50 feet from the  
18 reference line, i.e the highest observable tieline  
19 requirement, but not more than 50% of the basal area of the  
20 trees and the maximum of 50% of the total number of  
21 saplings be removed for any purpose at a twenty year period  
22 and required that stumps and root systems which are located  
23 within 50 feet of the reference line be left intact and in  
24 the ground and any other provision of RSA 483-B

1 inconsistent with the Natural Gas Pipeline Safety Act and  
2 any rules adopted thereunder or any provision of the final  
3 provision of the final FERC certificate of public  
4 convenience and necessity. So essentially, we will need to  
5 clear trees in order to cross these rivers and that's the  
6 bottom line.

7 Q. What do you say about the issue of a buffer, needing a  
8 buffer? Was there any contemplation of a tree buffer in  
9 the vicinity of the clear cut?

10 A. Well, we will have any temporary work space 50 feet removed  
11 from the water's edge. The actual pipeline construction  
12 work space will have to extend right up to the water's  
13 edge.

14 Q. Now, Mr. Trettel, have you had a chance to review concerns  
15 raised by the Newton Conservation Commission included in  
16 the Public Counsel prefile testimony?

17 A. Yes, I have.

18 Q. And one of the issues raised had to do with protection of  
19 Atlantic White Cedar swamps, do you recall that?

20 A. That's correct, yes.

21 Q. Can you advise the Committee on what you have looked into  
22 in this regard?

23 A. The Newton Conservation Commission has determined that we  
24 had underestimated the number of Atlantic White Cedar

1 swamps crossed by the project and only identified one swamp  
2 that had been identified to us by the Natural Heritage  
3 Inventory. In fact, we had identified that through our  
4 field surveys and through our agency interaction. In  
5 addition, during our field surveys we identified another  
6 Atlantic White Cedar swamp which the Town of Newton had  
7 pointed out. We have had meetings in the field with Irene  
8 Garvey from the DES to look at both of these areas. We  
9 have developed a proposed mitigation proposal to avoid  
10 minimized impacts to these areas and I just wanted to point  
11 out that we are very well aware of the Atlantic White Cedar  
12 swamps and their sensitivity.

13 Q. I'm going to show you our exhibit premarked as number 38  
14 and ask you what this is?

15 A. This is in response to a data request regarding these two  
16 Atlantic White Cedar swamps and whether it is possible to  
17 reroute around them or otherwise avoid impacts and  
18 essentially there is a description of our proposed route  
19 through these areas, the length we have crossed them and  
20 the various constraints associated with jotting around them  
21 causing additional impact or trying to remain on the  
22 Granite State Pipeline corridor through them and minimize  
23 impacts in that matter.

24 Q. Now, there was some earlier reference to deer wintering

1 areas. I'm showing you Exhibit 39 and ask you to tell me  
2 what that is.

3 A. This is the results of a deer wintering area study that was  
4 performed in conjunction with Mr. Will Staats of New  
5 Hampshire Fish and Game and we conducted an inventory of  
6 all known and potential deer wintering areas in Northern  
7 New Hampshire. The report contains the results of those  
8 studies, proposed mitigation to minimize impacts to deer  
9 wintering areas.

10 Q. How does that play into the final aligning of the pipeline?

11 A. Deer wintering areas are sensitive resources that there  
12 wasn't an existing corridor through them. It would be  
13 something you would have to give a lot of weight to, trying  
14 to avoid or route such that you may only skirt the edge of  
15 it or something. Since all of these sites that we're  
16 crossing are already traversed by an existing corridor  
17 where we cross, as far as routing is concerned, they don't  
18 have an effect on our gross routing but they may have an  
19 effect on minor adjustments to our work space.

20 Q. Is there any cross over in the relationship between deer  
21 wintering area protection and Atlantic White Cedar?

22 A. The Town of Newton had also expressed concern that the  
23 Atlantic White Cedar swamp at mile post 24 in Newton had  
24 potential to be a deer wintering area. Based on our

1 surveys conducted during our wetland delineation, we didn't  
2 identify significant deer wintering area use or deer use in  
3 the area of our crossing. If there was impact to it-- if  
4 there was determined to be deer wintering area use in that  
5 area, our proposed mitigation to address the Atlantic White  
6 Cedar issue would effectively address the deer wintering  
7 area issue.

8 Q. There was concern raised by Newton concerning Small Whorled  
9 Pegonia?

10 A. Yes.

11 Q. Can you tell us what that is all about?

12 A. Small Whorled Pegonia is a federally endangered threatened  
13 plant that was identified in Newton. The comment Newton  
14 had made is that if we found one, there may be more. The  
15 one individual plant that we found, and it was in an area  
16 of marginal habitat, and it's difficult to say whether or  
17 not there's more in the area, but we've developed a  
18 mitigation proposal in conjunction with New Hampshire  
19 Natural Heritage Inventory and we've made a proposal to the  
20 FERC which the Fish and Wildlife Service will evaluate and  
21 we will implement any mitigation that is deemed necessary  
22 by this agency.

23 Q. There is also some concern about interruption of amphibian  
24 habitat, can you explain what that situation is?

1 A. That's correct. The Town of Newton pointed out that we had  
2 identified specific areas for amphibian breeding habitat  
3 and they pointed out that virtually all the wetlands  
4 crossed by the project at some point provided amphibian  
5 breeding habitat that's generally a true statement and it's  
6 hard, if you have water there's a good chance you'll have  
7 amphibians using it. We feel that our construction  
8 schedule which will begin towards the end of that breeding  
9 cycle, will avoid significant impacts to amphibians. It's  
10 important to note that they're not protected by law  
11 necessarily, the amphibians.

12 Q. I want to turn now to what we have premarked as Exhibit 34  
13 and ask you what this contains?

14 A. The first table is "Species of Concern: Significant  
15 Habitat" identified by New Hampshire Natural Heritage  
16 Inventory along with PNGTS Northern New Hampshire revision  
17 and this was information provided by Natural Heritage  
18 Inventory, and provided known locations of species of  
19 concern and their approximate distance from our proposed  
20 project.

21 Q. What is your understanding of our constraints with respect  
22 to public disclosure of this information?

23 A. We're not at liberty to disclose the locations of these.

24 Q. And I'll represent to Mr. Chairman that we have redacted

1 the portion of all of these documents that relates to  
2 location. We've kept the original documents, if there is  
3 some way we can handle that but for purposes of these  
4 exhibits, that's what we've done.

5 A. The second table is a list of "State Listed and Proposed  
6 Endangered and Threatened Species" that occur in the  
7 vicinity of the Joint Pipeline Project in southern New  
8 Hampshire. This is identified by Natural Heritage  
9 Inventory. It's for the southern portion.

10 The other two documents are correspondence from  
11 Natural Heritage Inventory, provided to Robin Kim, Northern  
12 Ecological Associates, identifying their known -- oh, wait  
13 a minute -- yes, I'm sorry that's correct. That's is what  
14 it is, providing known locations of -- I take that back  
15 this is the first correspondence provided to Robin Kim of  
16 Northern Ecological Associates from the Natural Heritage  
17 Inventory stating that they have a backlog of requests for  
18 information and are unable to give a complete response at  
19 the time and that was dated August 30, 1996.

20 Q. A complete response to what?

21 A. A complete response to their request for information  
22 regarding known locations of species of concern.

23 Q. And has that information since been supplied?

24 A. It was supplied in February of 1997, February 4th.

1 Previous to that, in order to get information for our  
2 filings, we had to send our own staff to the Natural  
3 Heritage Inventory offices and requested to review their  
4 data base to get information regarding species of concern.

5 The next table is a list of "State Listed and Proposed  
6 Endangered and Threatened Species" that occur in the  
7 vicinity of the Joint Pipeline Project in southern New  
8 Hampshire and this was also -- this was the result of our  
9 detailed field surveys and with the associated  
10 correspondence from Natural Heritage Inventory.

11 Q. Do you have plans there as well in this exhibit or have you  
12 gotten through the packages yet?

13 A. Yes, these are plans for the Southern New Hampshire portion  
14 of the route showing locations of species of concern that  
15 were identified during our field surveys, species of  
16 concern identified in the field.

17 MR. KRUSE: I guess I have to say that you want  
18 to make sure you know they exist, but I'm still not sure what  
19 our limitations are with respect to full disclosure, but they're  
20 here.

21 CHAIRMAN VARNEY: You're obviously required to  
22 provide that to the Department of Environmental Services as part  
23 of the wetlands review process.

24 A. Yes, that has been provided, a complete threatened and

1           endangered species report has been provided.

2   Q.    There was also some concern raised by one of the commentators  
3           in the prefile testimony from Public Counsel about --

4                   MS. LUDTKE:   Excuse me.  Can I have a date, the  
5   date that was filed with the Department of Environmental  
6   services, that report.

7                   MR. KRUSE:   I don't have that.  I know that it  
8   was provided --

9                   MS. LUDTKE:   And the alignment sheets as well.

10                  MR. KRUSE:   It was provided to you in response to  
11   some data requests.

12                  MS. LUDTKE:   I'm interested in the alignment  
13   sheets and the report and when they were provided to the DES.

14                  MR. KRUSE:   All right.  I'll get that for you.  
15   My notes on the published exhibit list indicate limited  
16   distribution of 4-11-97 and 4-16-97.

17                  MS. LUDTKE:   Do they indicate distribution of  
18   plans to our office?

19                  MR. KRUSE:   No.  It doesn't on this notation,  
20   page 5 of the exhibit list.

21                  MS. LUDTKE:   And that's now an exhibit, the  
22   plans?

23                  MR. KRUSE:   For purposes of DES review.  I guess  
24   I mean I thought all of these exhibits you were objecting to

1 until the end. So, I don't know what your position is.

2 MS. LUDTKE: I just want to know what your plans  
3 are, because we haven't been provided with those plans.

4 MR. KRUSE: You're welcome to them. I assume if  
5 DES needs to review them than Public Counsel ought to be able to  
6 review them under some understanding with respect to  
7 confidentiality.

8 MS. LUDTKE: Which we've had since December.

9 MR. KRUSE: Had what?

10 MS. LUDTKE: An understanding with respect to  
11 confidentiality.

12 MR. KRUSE: Right.

13 CHAIRMAN VARNEY: There's been written  
14 communication?

15 MS. LUDTKE: Yes, there has been.

16 MR. KRUSE: If these were not supplied to you it  
17 was by no intention to foreclose your review. So, yes, I am  
18 proposing them as an exhibit and if you don't have copies, we'll  
19 supply them.

20 Q. There has been questions raised about the status of  
21 archeological review and surveys. Can you clarify for us  
22 what has been done, what reports have been produced and  
23 what is intended to be produced.

24 A. That's correct. For the southern portion of the route we

1 have completed Phase 1-A, 1-B and any necessary phrase two  
2 surveys for all accessible portions of the route,  
3 reports -- I may have to defer on the status of all the  
4 reports. The Phase 1 report has been filed, the Phase 2, I  
5 believe, has been filed for southern -- it has not been  
6 filed it has not been filed for the Phase 2, that's the  
7 results of Phase 1. For the Northern New Hampshire Route  
8 we completed -- there was concern, North Country Council  
9 had stated that we had done no archeological work in  
10 Northern New Hampshire, when in fact we had done the Phase  
11 1-A survey last year, last fall, which involves the  
12 background research as well as a walk over, a visual walk  
13 over of the route. There we currently have archeological  
14 crews in the field conducting Phase 1-B surveys based on  
15 the results of the Phase 1-A and based on the results of  
16 the Phase 1-B, they will move into Phase 2 this summer as  
17 well. Phase 2 is a more detailed analysis of a potentially  
18 sensitive site.

19 CHAIRMAN PATCH: Could you just explain what 1-A  
20 and 1-B --

21 A. Sure. Phase 1-A is essentially a background -- it's just a  
22 background research of known sites, data base searches,  
23 review the historic maps to identify where potential sites  
24 may have occurred and then it also consists of a walk over

1 to get a general feel of very obvious archeological as well  
2 as to identify potentially sensitive areas that may require  
3 more intensive testing. Based on that, we'll narrow down  
4 potentially sensitive areas that require a Phase 1-B  
5 sampling, which involves digging small test pits and  
6 screening the dirt to identify artifacts in the soil.  
7 Based on the results of the Phase 1-B, if anything is found  
8 during Phase 1-B a determination will be made as to whether  
9 or not the site is potentially significant and if it is  
10 then we'll go to Phase 2, which is the much more intensive  
11 subsampling -- soil sampling analysis. And then there's a  
12 third Phase, which is the Phase-3, which is the complete  
13 excavation, and that's probably what most people think  
14 about when they think about archeological excavations, the  
15 full blown large excavation of the site and those are  
16 rarely required, only if there is a very significant site,  
17 a potentially significant, potentially eligible for the  
18 National Register of Historic Places and cannot get  
19 avoided. So, we would do a Phase-3 full day recovery to  
20 mitigate the impact. As I said before the Phase 1-B is  
21 underway, based on the results of Phase 1-B, we'll do  
22 Phase-2 surveys and we anticipate completing reports by  
23 September of '97 and submitting the results.

24 Q. And what appears at Exhibit 36?

1 A. This is a summary report of the "Culture Resources  
2 Investigations of the Joint Pipeline Project,  
3 Massachusetts, New Hampshire, and Maine". This is the  
4 results of the archeological survey performed in the  
5 Southern Route and the second document is the report --  
6 it's a technical report, Archeological Resources, Phase  
7 1-A-A Preliminary Archeological Assessment of the Portland  
8 Natural Gas Transmission System New Hampshire route and  
9 this is for the Northern New Hampshire revision. This is  
10 the Phase 1-A report that the was done, the results of the  
11 Phase 1-A study that was done last year.

12 Q. I want to show you Exhibit 43, containing calculations with  
13 respect to wetlands impacts and ask you to describe what  
14 that is.

15 A. This is in response to a data request regarding -- they're  
16 asking us to give a final wetland -- wetland acreage  
17 impact, impact acreages for the Northern New Hampshire  
18 revision and the Southern New Hampshire portion of the  
19 project and these are the latest wetland acreage impacts  
20 based on -- based on the portions of the project that we've  
21 been able to gain access to.

22 MR. IACOPINO: What number was that, Jim?

23 MR. KRUSE: This is 43.

24 Q. I refer you to now to Exhibit 55. I believe there are a

1 series of items in here including some tables having to do  
2 with ground water inventories, public and private water  
3 sources.

4 A. Right. This contains a list of public and private water  
5 supplies known to be in close proximity to the Joint  
6 Pipeline Project. It contains a list of known private  
7 wells and municipal water supplies. It also -- there is  
8 also a table of potential groundwater hazard areas, areas  
9 of known potential contamination.

10 Q. What you're looking at there, is that a table that was  
11 originally filed with EFSEC or was that used in another  
12 forum?

13 A. This table was provided by the New Hampshire DES and I  
14 believe it was with Maritimes original filing. Yes, that's  
15 correct and then there's another table of public and  
16 private water sources and well locations within 150 feet of  
17 the construction work area for the revision, the Northern  
18 New Hampshire revision, as well as a list of springs that  
19 were identified in the revision and then the last table  
20 contained here is a point and non-point potential pollution  
21 sources traversed by the revision based on information  
22 provided by New Hampshire DES and it's essentially a list  
23 of sand and gravel mines and landfills in relative close  
24 proximity to the project.

- 1 Q. And finally, since there's been some reference to some  
2 resource reports, I want to make sure you're satisfied we  
3 have the most current versions of resource reports filed  
4 with the FERC in Exhibits 57 and 58 -- 57 and 57-A.
- 5 A. Yes. Fifty seven is the environmental report that was  
6 filed from the New Hampshire revision, Northern New  
7 Hampshire revision, the most recent, and Exhibit 57-A is  
8 the FERC filing that was filed for the Joint Pipeline  
9 Project.
- 10 Q. Mr. Trettel, I want to conclude the direct testimony by  
11 asking you to return to the issue of work with the DES on  
12 draft conditions and I guess first of all we should  
13 identify our Exhibit 72, which I'm missing. Do you have a  
14 copy of the draft conditions?
- 15 A. Yes, I do.
- 16 Q. All right. I'm not going to ask you to go through these  
17 line by line. I just want to ask you to tell the Committee  
18 what PNGTS has been doing in response to the draft  
19 conditions filed by DES?
- 20 A. We received draft conditions from the DES, approximately  
21 sixty comments and conditions and we've been in the process  
22 of evaluating them and determining whether they are doable  
23 regarding construction on this pipeline. We're in general  
24 agreement with about two thirds of them. There's about a

1           third of them that we feel we need to have some further  
2           discussion with DES on, hopefully we can come to some  
3           conclusion, maybe a mutually acceptable conditions. Some  
4           of the major issues that we're still dealing with are some  
5           of DES's concerns regarding rip rap and water bar spacing,  
6           control of nuisance species, definitions of storm events  
7           and what we need to do if there is a storm event and the  
8           condition regarding a seeding window. We, in general, we  
9           feel that the conditions are generally reasonable and we  
10          just feel that we would -- we would request to meet with  
11          the DES for further discussions on these.

12        Q.    Are the topics that you've identified for further more  
13              detailed discussions generally covered in the revised  
14              environmental construction plan?

15        A.    Yes.

16                               MR. KRUSE:  No further questions.  Thank you,  
17        sir.

18                               CHAIRMAN VARNEY:  Why don't we take a five minute  
19        break and then we'll do our cross examination.  Thank you.

20        (Recess)

21   CROSS EXAMINATION

22        By Ms. Ludtke:

23        Q.    Yesterday during your direct exam you referred to a matrix  
24              that you used to make routing decisions or siting decisions

1 for your line, do you recall that?

2 A. Yes, I did do.

3 Q. And I think you emphasized the term "make siting  
4 decisions," versus justified siting decisions. In other  
5 words, you used that as a mechanism to make decisions and  
6 not to justify decisions after those decision had been  
7 made, is that correct?

8 A. That's correct.

9 Q. Now, in order to use that as a mechanism to make decision  
10 rather than to justify routing decisions that you make in  
11 advance, you need underlying data, don't you?

12 A. That's correct.

13 Q. And in fact, you were here yesterday when I asked Mr.  
14 Minkos some questions regarding the generation of  
15 underlying data pertaining to the Northern Route, weren't  
16 you?

17 A. Yes.

18 Q. And he indicated on a number of questions that he didn't  
19 know whether that information had been obtained at the time  
20 the filing was made in November of 1996. Do you recall?

21 A. Yes.

22 Q. And in fact, when you go through the ratings that you have  
23 on your matrix, there is a number of areas that you had no  
24 information when you filed that application in 1996 in

- 1 November, is that not correct, for the Northern Route?
- 2 A. That's correct. There were some data gaps, yes.
- 3 Q. There were a lot of data gaps, weren't there?
- 4 A. I wouldn't say "a lot". We had completed the majority of
- 5 our -- the environmental analysis that is typically
- 6 required for a project of this type.
- 7 Q. Well, you say "typically required," but that's not how your
- 8 matrix works. Your matrix, for example, has species of
- 9 concern on it. You hadn't done that work for the Northern
- 10 Route had you?
- 11 A. That's correct.
- 12 Q. And in fact you hadn't done any work for the significant
- 13 habitats for the Northern Route, had you?
- 14 A. We hadn't done any field work. We had, as I had mentioned
- 15 before, we had made an appointment with Natural Heritage
- 16 and reviewed their data base, because they were unable to
- 17 find the information we requested.
- 18 Q. No field work?
- 19 A. No field work, that's correct.
- 20 Q. And you hadn't done any work in terms of looking at the
- 21 cultural resources, had you?
- 22 A. Yes, we had.
- 23 Q. You had done cultural resource work before you filed in
- 24 November?

- 1 A. We had done Phase 1-A and field surveys, correct.
- 2 Q. And again that would be no field work?
- 3 A. No. That was field work. The Phase 1-A consists of
- 4 conducting background research, as well as conducting the
- 5 walk over survey, but as far as detailed shovel testing,
- 6 that hadn't been done, but we had done field work.
- 7 Q. And your rating also contains a rating for rock blasting.
- 8 You hadn't really examined what your blasting was going to
- 9 be.
- 10 A. We hadn't done the detailed geotechnical study which has
- 11 been done since that time, but we had done general visual
- 12 assessments identifying rock outcroppings and side slopes
- 13 and you can get an approximate idea of what kind of rock
- 14 you may encounter during construction.
- 15 Q. But nothing very specifically?
- 16 A. Well, we looked at that entire route. I wouldn't say -- we
- 17 didn't do a specific geotechnical study but we did an
- 18 engineering evaluation of the rock, yes.
- 19 Q. It would be fair to characterize the field work that has
- 20 been done on that route as limited field work.
- 21 A. No.
- 22 Q. It would not be fair?
- 23 A. It would not be fair to say that. We conducted a complete
- 24 survey of wetlands and streams, and as I mentioned before,

1 the Phase 1-A archeological survey and we had done a  
2 detailed engineering survey at that point.

3 Q. You hadn't developed your alignment sheets?

4 A. They were in preparation. They were filed -- I'm not sure  
5 of the exact date they were filed but the data needed to  
6 generate alignment sheets had been collected by that point.

7 Q. But you hadn't actually prepared the alignment sheets?

8 A. I'll have to defer to Mike Morgan on that.

9 Q. Now, do you --

10 MR. KRUSE: Mr. Chairman, excuse me. Do I  
11 understand correctly that during the course of cross examination  
12 of this witness, who is part of a panel, that he can consult, as  
13 long as he tells you what he is doing, consult with another  
14 member of the panel for --

15 CHAIRMAN VARNEY: Sure, that's fine.

16 MR. KRUSE: -- in an effort to get the answers  
17 out.

18 CHAIRMAN VARNEY: That's fine.

19 MR. CANNATA: Provided the panel members have  
20 been sworn in.

21 MR. IACOPINO: Why don't you swear all four  
22 members in. Mr. Kruse, would you identify them for the court  
23 reporter?

24 MR. KRUSE: I will. John Auriemma, Brent Evans,

1 and Mike Morgan. Mr. Evans doesn't appear on the written  
2 prefile testimony. He's being offered on direct by prior  
3 notice, particularly to respond to some of the issues raised in  
4 Public Counsel's testimony, but he's also a previously  
5 identified member of the panel of specialists on the  
6 construction issues. And so, if you would all raise your right  
7 hand, please.

8 JOHN AURIEMMA, BRENT EVANS, MICHAEL MORGAN

9 Are duly sworn by Mr. Kruse

10 MS. LUDTKE: Mr. Chairman, I would like the  
11 record to reflect that no testimony has been prefiled on behalf  
12 of Brent Evans. He is being offered here as a witness without  
13 any prefile testimony whatsoever and no notice to Public Counsel  
14 as to the substance of his testimony.

15 MR. KRUSE: I'll agree that no prefile written  
16 testimony was submitted by Mr. Evans, but I strongly disagree  
17 with respect to notice to Public Council, not only was that the  
18 subject of a letter that I wrote to Public Counsel before our  
19 meeting with Attorney Iacopino in the form of a prehearing  
20 conference last week, where I identified him as a witness, but  
21 at the meeting itself I identified the areas where he may be  
22 needed to offer testimony and then I followed that meeting with  
23 another letter confirming that we needed him not only as a  
24 panelist to respond to questions, but also as a direct person

1 offering testimony on the subjects of and I gave those subjects  
2 to Public Counsel and I believe I said they were to be in  
3 response to issues raised in the prefile testimony with specific  
4 reference to Haley & Aldrich. I have to check my letter to see  
5 what else, and I assume we'll get to that point later, but I  
6 just want to make sure the record is clear that before the  
7 prehearing conference we had with Attorney Iacopino, Public  
8 Counsel was on direct notice of Mr. Evan's involvement as a  
9 prospective witness. Of course, he was also a predominate  
10 contributor to many, many lines of responses to data requests  
11 from Public Counsel which we were pleased to respond to with  
12 Mr. Evans help.

13 MS. LUDTKE: Well, I think I disagree with Mr.  
14 Kruse as to what the requirements of prefilng testimony are. I  
15 understood prefilng testimony would not only identify the  
16 subject matter, but would also identify the substance of what  
17 the witness would testify to and Mr. Evans has been suggested  
18 that he may be a witness as to certain matters that were  
19 generally defined to include the subject matter -- the substance  
20 of his testimony has not been identified and the understanding  
21 that I had in going into this proceeding is that the substance  
22 of the witness's testimony would be identified and would be  
23 submitted on a prefile basis, so we would avoid lengthy direct  
24 examination and elicitation of new subject matters and new

1 testimony at this time.

2 MR. KRUSE: Mr. Chairman, may I suggest that we  
3 have two issues here one is, is Mr. Evans and appropriate member  
4 of a panel to assist in responding to questions from the  
5 Committee and Public Counsel and any other party. I don't think  
6 there is any dispute that he is an appropriate member of that  
7 panel and he has been sworn in to provide that assistance. With  
8 respect to his offering direct testimony, I would respectfully  
9 submit that offering prefile written testimony for Mr. Evans to  
10 respond to Public Counsel's prefile written testimony was  
11 impossible due to the short time frame within which we were all  
12 working. I don't suggest that Public Counsel was a day late in  
13 providing her pretrial Public Counsel testimony, but to provide  
14 a written response by Mr. Evans during the period of time we had  
15 was not viable and I'll explain that by my letter to Ms. Ludtke  
16 delivered 10:15 on the 19th, I indicated that with respect with  
17 to PNGTS witnesses we discussed at the meeting yesterday, having  
18 Brent Evans, Stephen Compton and Robin Kim involved as members  
19 of the panel to assist in responding to questions from the  
20 Committee and the parties, rather than limit Mr. Evans to that  
21 role, we will offer direct testimony to address certain  
22 questions raised by the NH-DES draft conditions and by Haley &  
23 Aldrich. The reason I wrote the clarifying letter is that  
24 Justin Richardson very properly asked me the question directly

1 at our prehearing conference the day before, "Do you intend to  
2 use Mr. Evans as a direct witness?" and I had explained to both  
3 counsel that we were literally in the middle of a meeting that  
4 day to decide whether or not that was appropriate, but I told  
5 Mr. Richardson at the time, most likely we would use Mr. Evans  
6 only as a member of the panel to respond. That's why I thought  
7 it was important by 10:15 the next morning to let you know that  
8 the he intended to offer direct testimony on the topics that I  
9 identified in that letter. I suggest that if we have to have an  
10 argument over Mr. Evan's participation, maybe it can wait until  
11 the time that he is offered as a witness.

12 MS. LUDTKE: Mr. Trettel, you used the rating  
13 matrix that we were referred to rate certain routing around the  
14 Gorham and Shelburne areas, did you not.

15 A. My staff did, yes.

16 Q. And in fact, that first rating occurred in an application  
17 that was filed in May 1996?

18 A. That's correct.

19 Q. And in fact, in the May 1996 application the Southern Route  
20 around Gorham was shown to the be favored over a Northern  
21 Route, is that correct?

22 A. That's correct.

23 Q. And in fact, you identified them as Option 1, Option 1-A  
24 and Option 2 and I'll just read off the ratings and the

1 equivalent routing that we see later on, which would be  
2 Option 1, which would essentially be the Gorham North  
3 routing, would you agree with that?

4 A. Yes.

5 Q. And that is was rated as 47? Do you want to see the  
6 application?

7 A. Yes.

8 Q. And the Gorham Southern was rated as 40?

9 A. Yes.

10 Q. And the Gorham North was rated as 64? Well, other  
11 Shelburne revision routing, but not on the north side?

12 A. Not on the north side.

13 Q. Is rated as 64?

14 A. Just as a point of clarification was that the revision  
15 before the latest revision?

16 Q. Let me go back and clarify the question, so the Committee  
17 understands. This is the May 1996 application, is it not,  
18 Mr. Truttel?

19 A. Yes.

20 Q. And this application had a different routing through  
21 Vermont?

22 A. Correct.

23 Q. And in fact, the routing that was used on this came in on  
24 the southern side of Gorham, is that correct?

- 1 A. Yes.
- 2 Q. And the routing was based upon the routing that was to the  
3 west and north of that routing?
- 4 A. Correct.
- 5 Q. Now in May of 1996, how much field work had been done?
- 6 A. May of 1996, that entire area had been -- we had conducted  
7 our environmental field surveys the previous summer, so all  
8 wetlands and streams had been identified on aquatic  
9 accessible portions of that route.
- 10 Q. Cultural resources identified?
- 11 A. By May of '96 Phase 1-A had been completed, but Phase 1-B  
12 and 2 were conducted during the summer of last year.
- 13 Q. Species of concern?
- 14 A. Species of concern had not yet been completed in that area.
- 15 Q. Significant habitat, no?
- 16 A. Searches of data bases had been completed.
- 17 Q. And all those areas were rated on that matrix, correct?
- 18 A. No. The species of concern habitat information were not in  
19 this table and that's probably because we hadn't completed  
20 our field surveys yet.
- 21 Q. Okay. If I could get that back. And yesterday when you  
22 described this ratings matrix you characterized it as being  
23 objective, is that correct?
- 24 A. That's correct.

1 Q. And in order for it to be objective, would you agree that  
2 you need comparable information for each particular  
3 diversion that you're considering? In other words, you  
4 can't have more information about one diversion than  
5 another diversion, would you agree with that?

6 A. That's correct.

7 Q. And in fact, when you changed your route in November you  
8 filed another matrix rating, the different routing through  
9 this Gorham and Shelburne area, did you not?

10 A. That's correct.

11 Q. And in fact, in the November 1996 application the numbers  
12 changed and the ratings showed that the southern routing,  
13 which would be the Gorham South routing, had a value of 17,  
14 compared to the revision that you now have a variation of  
15 it on the chart is not, is that correct?

16 MR. KRUSE: I would object to the question  
17 without allowing the witness to examine that which you --

18 MS. LUDTKE: He can look at it right now.

19 A. That's correct.

20 MR. PATCH: I'm not sure I understand. Maybe a  
21 question would help while we're on the subject, 17 or seventy.

22 MS. LUDTKE: Seventeen.

23 MR. PATCH: Okay. Now, I don't understand how  
24 the rating is done, what the numbers mean and I can ask that

1 question when we get to it. It might be helpful if you could  
2 answer that now.

3 Q. Mr. Truttel, the lower value is indicative of the preferred  
4 route is that correct?

5 A. It indicates a lower level of constraint.

6 Q. You associate the better choice with the lower number, is  
7 that correct?

8 A. Correct.

9 Q. So, in the first routing in May of 1996, the lowest number  
10 was this Gorham South Route, correct?

11 A. That's correct.

12 Q. And in fact, that number was 24 points lower than the  
13 Gorham North or the northern routing I mean.

14 A. That's correct.

15 Q. It was comparable to your revision.

16 MR. IACOPINO: Could you just state what the  
17 constraints were that you were looking at, so the Commissioners  
18 can understand what you are looking at.

19 THE WITNESS: In this particular assessment we  
20 identified environmental constraints, engineering constraints,  
21 and land use constraints; and under environmental constraints we  
22 had total length of diversion, National Wetland Inventory  
23 wetland crossings, intermittent stream crossings, perennial  
24 stream crossings, major water body crossings, critical and

1 significant habitats and then under engineering we had  
2 cross-overs, that references pipeline cross-overs, road  
3 crossings, general construction difficulty, and new corridor  
4 required; and then under land use constraints we identified  
5 residences and schools, churches, parks, essentially sensitive  
6 receptors.

7 Q. Now, Mr. Trettel, looking at that compared with the table  
8 1-5 that was on your first diversion assessment, there's a  
9 lot of evaluation criteria that are eliminated on the  
10 November evaluation that were contained on the May  
11 evaluation, isn't that correct?

12 A. That's correct.

13 Q. And that would be one reason why the numbers are so much  
14 lower?

15 A. That makes them, the overall numbers lower. We didn't have  
16 as many criteria. We tried to group some of them together,  
17 but as far as the ratio, it wouldn't necessarily effect  
18 that as much.

19 Q. So, the criteria were really very different in table 1-5  
20 versus that table, at least to the appearance, one wouldn't  
21 know that you had grouped them unless you somehow or other  
22 indicated that somewhere, which you hadn't.

23 MR. KRUSE: I'm sorry. Can he have the question  
24 again?

1 MS. LUDTKE: You know, what --

2 CHAIRMAN VARNEY: Are you referring to the  
3 numbers or the alternative outcome.

4 MS. LUDTKE: What I'm asking Mr. Trettel about is  
5 he listed a number of evaluation criteria and constraints and  
6 maybe he needs this table to compare.

7 Q. Buy why don't you just go through that exercise, Mr.  
8 Trettel and compare the evaluation criteria that you used  
9 on table 1-5 that was filed in May, to the evaluation  
10 criteria that you used on the table that was filed in  
11 November, that would have been six months later. Why don't  
12 you just indicate for the Committee which ones are missing?

13 MR. KRUSE: Well, I believe the first question  
14 was ask him to compare and I think that may be different from  
15 identifying what is missing and I think that is fair as a  
16 follow-up question, but I'd like him to answer the question, how  
17 do they compare?

18 A. Well, as I stated before several of the criteria that were  
19 originally in our original diversion assessment were not  
20 used in the second diversion, the November filing diversion  
21 assessment. Things that were not included in the November  
22 diversion assessment, in the original diversion assessment  
23 we had species of concern and significant habitat as two  
24 separate line items. In the November diversion assessment

1 we had that as one. We kind of lumped that as one line  
2 item.

3 CHAIRMAN VARNEY: Explain why they were lumped.

4 A. Yes. In the original diversion assessment we had a line  
5 for hundred year flood plains. In the November assessment  
6 we did not have the hundred year flood plains because we  
7 didn't feel that it was a major decision making criteria  
8 for routing the pipeline. In the original diversion  
9 assessment we had a category under "environmental" of  
10 forest land to clear. That criteria was lumped into  
11 basically under the new corridor required in the November  
12 filing under "engineering constraints" and that was an  
13 attempt to eliminate a double counting of that. The  
14 potential -- in the original assessment, there is a line  
15 item for potential/known cultural resources. We did not  
16 have that information at the time of this at the November  
17 filing. That line item was removed. And then in the  
18 original diversion assessment there is a line item for  
19 steep slopes erosion potential. That parameter was omitted  
20 from the November filing, but it was included under  
21 engineering constraints as part of the overall construction  
22 difficulty criteria. That's how the environmental  
23 parameters differ. There are some other differences.  
24 Should I go through them all?

1 Q. Sure.

2 A. Under land use parameters in the original filing we have a  
3 line item for landowner concerns, which is somewhat  
4 subjective. In our November filing we had removed that  
5 just because due to at the time a lot of those had not been  
6 expressed. In the original filing we had an item for  
7 proximity to sensitive receptors present, which is schools,  
8 parks, those were all separate items. In the revised  
9 version we grouped them, you know, schools, churches,  
10 parks, in one line item. There are two other things under  
11 "land use parameters" in the original filing, land use  
12 obstacles, quarries -- and that consists of quarries, waste  
13 sites, major land use obstacles and visual impacts and both  
14 of those were not included in our November filing, our  
15 November diversion system. And under "engineering  
16 parameters" on both diversion assessments we had pipeline  
17 cross-overs we had the road crossings on both. On the  
18 original one we had terrain side slopes, rocks/blasting  
19 required. Those two items were combined in the November  
20 diversion assessment as overall construction difficulty.  
21 In the original filing we had a new corridor required, that  
22 was included in the November filing, and then we had a  
23 category for -- in the original filing we had a category  
24 for work space, references to extra work space required

1           that was not included in the November filing.

2                   MR. KRUSE: I think you should keep hold of those  
3 copies, because there will be further questions on them.

4                   MS. LUDTKE: I'm going to be using them to ask  
5 and when he needs to see them, I'll give them to him.

6                   MR. KRUSE: Could we make extra copies so that he  
7 can have those please?

8                   MS. LUDTKE: All right. Do you have copies?

9                   MR. KRUSE: No.

10                  MS. GEIGER: Excuse me. Can I ask Public Counsel  
11 to direct us to the portion of the record thus far and where  
12 those two tables appear. Are they in the data responses to  
13 Public Counsel's data request or are they elsewhere?

14                  MS. LUDTKE: The first evaluation appears in the  
15 application, the May 1996 application, and it's at pages 120 and  
16 121. The second routing comparison is at page 61 of the  
17 amendment to the application and that's the narrative  
18 description, and the matrix appears at page 97 and it's  
19 identified as table 1.24.

20                  MS. GEIGER: Thank you.

21 Q. Now, Mr. Trettel, you testified that you combined a number  
22 of the categories when you did the November application, is  
23 that correct?

24 A. That's correct.

1 Q. Did you ever provide the Public Counsel or the Committee  
2 with any document that the Committee could use to determine  
3 which categories have been combined into the new rating  
4 categories?

5 A. No, we didn't.

6 Q. There is no way that anyone would know what you had  
7 combined to reach a new rating category?

8 A. Only by comparing the two and you could make some judgment  
9 as to which criteria had been combined.

10 Q. But you wouldn't know, would you?

11 MR. KRUSE: I believe he has answered the  
12 question.

13 Q. Would you know or would you not know, based upon this,  
14 which had been combined, yes or no?

15 A. You would not know all of them.

16 Q. Now, when you combined these categories and you also  
17 combined the numbers, so in fact, when you combined a  
18 category and it had been rated say 2 and 2 on the previous  
19 rating matrix that it was then given a rating of 4 to  
20 reflect the combination?

21 A. I don't believe it was done that way.

22 Q. So, when you combined the categories, you then proceeded to  
23 rate that combined category as a single category, did you  
24 not?

- 1 A. That's correct, yes.
- 2 Q. And that would effect how judgments are made as to the  
3 routing when those are combined, because by combining the  
4 category it diminishes the importance of whatever factors  
5 are being combined in the rating matrix, does it not?
- 6 A. Not necessarily, no.
- 7 Q. Oh it doesn't, if you don't change the rating?
- 8 A. The categories would be combined and reevaluated based on  
9 what factors you are evaluating.
- 10 Q. Mr. Trettel, you just told me that you didn't add up the  
11 ratings when you combined the categories, that you rated it  
12 as a single category, did you not.
- 13 A. That's correct.
- 14 Q. Now, if you go through these you can see that in fact your  
15 ratings in a number of those categories that were combined  
16 didn't increase, would you like to look?
- 17 A. I have it here.
- 18 Q. That's true, right?
- 19 A. Yes.
- 20 Q. And that diminishes the importance of any factor that is  
21 being combined doesn't it, yes or no?
- 22 A. No.
- 23 Q. No, it doesn't?
- 24 A. No, it does not diminish the importance of that factor.

1 Q. So, if I take two categories and I combine them into one  
2 category and I rate that one category as a 2, versus the  
3 previously two categories each rated as 2, that does not  
4 diminish the importance of that factor in the rating  
5 scheme?

6 A. No, because we have fewer overall criteria that we're  
7 evaluating. It's a relative thing.

8 Q. Did you ever look at your rating system to see how that  
9 might have effected the judgments or the values that were  
10 being rated in terms of the change of values that might  
11 occur from changing the matrix?

12 A. Yes.

13 Q. And what conclusions did you reach?

14 A. It didn't effect the ultimate decision.

15 Q. So, it was the same, right?

16 A. Essentially.

17 Q. And in that November ratings system you had the southern  
18 Gorham South Route alternative rated as 17, right and your  
19 proposed routing rated as 9, is that correct?

20 A. That's correct.

21 Q. So, one would say the 17 versus 9, that was almost a  
22 hundred percent difference in the points, is that right?

23 A. That's correct.

24 Q. That's a pretty considerable amount isn't it?

1 A. Yes.

2 Q. But that's not how your ratings finally ended up at  
3 Shelburne's bequest, when they asked you to do it again,  
4 right?

5 A. That's correct.

6 Q. In fact, when they finally ended up there was only a three  
7 point difference, 41 to 44, correct?

8 A. Well, the reason is, we were requested to reevaluate using  
9 all of the original parameters that were used in the May  
10 filing. So, then you add it and you have more parameters,  
11 thus more numbers, thus the numbers get larger.

12 Q. So, wouldn't that cause you to think that your changed  
13 rating system might have effected the rating and that you  
14 have almost a hundred percent difference using this rating  
15 system than a difference of about 5% using the other rating  
16 system? Wouldn't that cause you to wonder why the  
17 difference would occur?

18 A. Yes, it would.

19 Q. But your testimony today to this Committee is that it  
20 really didn't matter?

21 A. Well, as Mr. Minkos had mentioned yesterday, it was an  
22 interim process and over the course of time we get more  
23 information, we get more input from agencies, concerned  
24 landowners, thus the rankings, the numbers that are

1 assigned to the various constraints can change and that is  
2 the case in this situation.

3 Q. Well, Mr. Trettel, you didn't do any field work between  
4 November and April when your final ranking was done, up in  
5 the Northern Route?

6 A. We did site visits, yes we did.

7 Q. You did a site visit?

8 A. We've done site visits.

9 Q. It was snow covered?

10 A. That's true.

11 Q. You couldn't do any significant species work.

12 A. No.

13 Q. So, the field work you did between November and May just  
14 consisted of visiting the site or walking the site, that  
15 was it?

16 A. Primarily to evaluate the visual impact.

17 Q. And that would have been reconnaissance work that would  
18 have effected your rating that dramatically?

19 A. That's correct.

20 Q. You didn't walk it before. You didn't know what it looked  
21 like when you rated it the first time?

22 A. No, we had. Let me clarify. In our original May  
23 application we had not walked that Northern Route. We had  
24 no permission.

1 Q. But you rated it anyway even though you hadn't even been on  
2 it?

3 A. That's correct.

4 Q. You hadn't done any reconnaissance on it?

5 A. No, we had done reconnaissance.

6 Q. You hadn't actually walked the route and yet you rated it?

7 A. That's correct.

8 MR. ELLSWORTH: Could you distinguish between the  
9 two please, Mr. Trettel. What's the difference? How do you  
10 distinguish or define reconnaissance versus site visits?

11 THE WITNESS: Well, we've done -- well, you do  
12 map analysis, aerial photo analysis, helicopter fly overs,  
13 drive-bys, various ways of evaluating a route without actually  
14 walking on the property, but we would not have permission to  
15 walk on the property.

16 Q. Okay. You did another ranking, didn't you, in response to  
17 a data request from the FERC?

18 A. Yes.

19 Q. You did that in February?

20 A. Yes, we did.

21 Q. And your February ranking came out with another value  
22 again, different than the first ranking that had been done  
23 in November, correct?

24 A. That's correct. It was a different route.

1 Q. The ranking that you did in February was a different route  
2 than the ranking in November?

3 A. The ranking that we did in response to the data request was  
4 for a route that was different than the route that was  
5 evaluated in November, that's correct.

6 Q. How did that route differ?

7 A. The route that was identified or was ranked in November was  
8 the so called Gorham South Route. The route that was  
9 identified or was evaluated in February was a route that  
10 FERC had requested us to look at that would cross the  
11 Androscoggin River just north of the Town and Country Golf  
12 Course.

13 Q. And in that ranking that you did in February, the same  
14 number of limited evaluation criteria occurs, is that  
15 correct?

16 A. I'd have to look at this.

17 Q. Do you want to see it?

18 A. It has a couple more criteria.

19 Q. So, you added a few to that one?

20 A. Yes.

21 MR. ELLSWORTH: Could I ask for clarification  
22 again please. I'm becoming unclear as to which routes you  
23 evaluated in each one of these. Could you just tell us again  
24 under the three different studies that you made which routes you

1 were studying each time, please.

2 THE WITNESS: Going back to May?

3 MR. ELLSWORTH: Yes.

4 THE WITNESS: In May we were evaluating our  
5 original route which came down through Vermont, into New  
6 Hampshire and a line along the Portland Pipeline corridor south  
7 of the Androscoggin River and at that time we also looked at an  
8 alternative that would go north of the and Androscoggin River.

9 MR. ELLSWORTH: And is that the one which you  
10 defined yesterday as the yellow line on an Exhibit?

11 THE WITNESS: Correct. In May our primary route  
12 came along through here, following the Portland Pipeline.

13 MR. CANNATA: And which ranking was that  
14 Mr. Truttel, of the in May, of the 47, 40, or 60, 40 you've  
15 discussed in the matrix?

16 THE WITNESS: That was the 40.

17 MR. CANNATA: The 40 was the original route.

18 Okay. Thank you.

19 MR. ELLSWORTH: And the north was 64?

20 THE WITNESS: And an alternative that would have  
21 diverted north and then east and then a diversion again  
22 basically similar to our currently proposed route, that ranked  
23 as a 64.

24 MR. ELLSWORTH: And what does the 47 number

1 represent?

2 THE WITNESS: That represented a route  
3 that was -- this is the same route but one which would divert --  
4 I don't remember which one was Option 1 or Option 1-A, but it  
5 was basically the same route through Gorham but just in the  
6 center of town it would divert south, there's a park and a  
7 swimming area.

8 MR. ELLSWORTH: Is that the diversion that we  
9 heard about earlier this morning which has become acceptable to  
10 the Gorham Town Manager?

11 THE WITNESS: No. Well, what has become  
12 acceptable to the Gorham Town Manager was the diversion that  
13 would come off of PSNH north of the Village of Gorham, head due  
14 west, due south and then get onto the Portland Pipeline  
15 corridor, and simply be on our old original route, yes.

16 MR. ELLSWORTH: Okay. You've helped us with the  
17 May option. Now could you give us the specific routes for the  
18 November option, please.

19 MR. PATCH: Before you do that, I'm not clear  
20 what the 47 is. I don't understand the three different routes.

21 MR. ELLSWORTH: I'm assuming it's irrelevant,  
22 because you never went back to it.

23 THE WITNESS: They're basically the same route.  
24 The only difference is one of them went straight through the

1 center of the congestion in Gorham and the other went -- took a  
2 little dip below.

3 MR. IACOPINO: One went around the junkyard, did  
4 it not?

5 THE WITNESS: The junkyard, yes.

6 MR. ELLSWORTH: Now, if someone who accompanied  
7 us on the May site could help -- could tell us which diversion  
8 we visited.

9 MR. CARPENTER: You visited both of the  
10 diversions.

11 MR. ELLSWORTH: We visited both of the  
12 diversions?

13 MR. KRUSE: I don't understand your question,  
14 please.

15 MR. ELLSWORTH: When we returned from the  
16 proposed the original Southern Route we diverted and went over  
17 by the junkyard and out a road away from Gorham and down behind  
18 a park and that was offered to us as a diversion which the  
19 petitioner does not favor.

20 MR. CARPENTER: That is correct.

21 MR. ELLSWORTH: Now, which diversion was that as  
22 Mr. Truttel now defines two diversions.

23 MR. CARPENTER: That is what is known as Gorham  
24 South and that is the one that has the rating of 40.

1 MR. ELLSWORTH: Okay. And that -- do I  
2 understand that that is the one that the Town Manager has found  
3 an acceptable or preferred diversion?

4 MR. CARPENTER: That is the one that the towns of  
5 Gorham and Shelburne are finding is preferred.

6 MR. ELLSWORTH: Thank you.

7 MR. CARPENTER: The Gorham North Route goes under  
8 the so called junkyard and that was the issue there and it also  
9 impacted several heavily populated areas of Gorham.

10 MR. ELLSWORTH: Okay. Thank you. Now, can we  
11 turn to -- excuse me Ms. Ludtke for interrupting, but now can we  
12 go to the November study and give us the specific north-south  
13 option routes there, please.

14 THE WITNESS: In the November study, we were  
15 coming down from Berlin along the PSNH corridor. That was our  
16 preferred route, a diversion toward the east and traveling north  
17 along Hogan Road along north of Hogan Road, along the north side  
18 of the --

19 MR. ELLSWORTH: Is that substantially the same  
20 Northern Route that you studied in the May study?

21 THE WITNESS: No. Well, the general location is,  
22 but what we looked at in the May study would have been higher on  
23 the hillside, higher up potentially, and more side hill areas  
24 and potentially requiring more -- more construction and

1 environmental constraints. The route that we ultimately chose  
2 was much lower on the slope, on the terrace directly adjacent to  
3 the river, with the intent of minimizing the visual and  
4 environmental impacts.

5 MR. ELLSWORTH: So, that's the Northern Route  
6 that you studied in November?

7 THE WITNESS: That's correct.

8 MR. ELLSWORTH: This lower slope?

9 THE WITNESS: Yes.

10 MR. ELLSWORTH: And what was the Southern Route?

11 THE WITNESS: The Southern Route was essentially  
12 the Gorham North and Gorham South diversions. We came down from  
13 Berlin, diverted west, south, crossed -- crossing the  
14 Androscoggin and getting onto the Portland Pipeline.

15 MR. ELLSWORTH: And now finally, you made  
16 apparently a third study in February.

17 MR. PATCH: Can I stop you right here?

18 MR. ELLSWORTH: Sure.

19 MR. PATCH: I just want to understand the numbers  
20 for November. Can you give us those numbers for November and  
21 were they broken down into three or were there only two.

22 THE WITNESS: There were only two alternatives  
23 looked at in November. One was our main one, our proposal which  
24 had a total relative value of 9 and we've referred to it as the

1 Gorham by-pass or the Gorham diversion that had a total relative  
2 value of 17.

3 MR. PATCH: And which of the two Gorham routes  
4 did you use to make that?

5 THE WITNESS: I believe we were looking at the  
6 one, the Gorham South.

7 MR. PATCH: The one that received a 40 in May?

8 THE WITNESS: Pardon?

9 MR. PATCH: The one that received a 40 in May?

10 THE WITNESS: That's correct.

11 MR. PATCH: And just so I understand in  
12 relationship to that map and the one that we received, when you  
13 say "the company preferred route," is it the yellow line or the  
14 mustard colored line, as opposed to the red diversions?

15 THE WITNESS: The yellow line or mustard colored  
16 line was our original proposal before you -- or had been filed.  
17 The red indicates locations where we will realign or are  
18 proposing to realign to be corrected on Hogan road.

19 MR. PATCH: And so the red realignments, have  
20 they ever been evaluated even in February?

21 THE WITNESS: No they were not.

22 MR. PATCH: Okay. So, what you're proposing now  
23 really hasn't received any evaluation under any of those three  
24 evaluations you've done.

1 THE WITNESS: That's correct.

2 MR. ELLSWORTH: Now finally, just take me back to  
3 the February one and give us the specific routes that you  
4 studied in February.

5 THE WITNESS: In February the FERC requested us  
6 to evaluate our routes that would divert approximately mile post  
7 69.5 in that vicinity. It was right in this area. They didn't  
8 specify exactly where; head due south across the golf course,  
9 join up with Portland Pipeline and traverse along Portland  
10 Pipeline back to where it rejoined our original proposal and we  
11 compared that proposal with our original proposal.

12 MR. ELLSWORTH: And the South Route that received  
13 the 44 rating in February was which one? Was which route?

14 THE WITNESS: I don't have that, the one that  
15 received the 44 rating.

16 MS. LUDTKE: Commissioner Ellsworth, you keep  
17 referring to three ratings. In fact, there are six ratings and  
18 we're only halfway through.

19 MR. ELLSWORTH: Okay. And I promise to be quiet  
20 after the third one here. I'm just trying to understand.

21 MS. LUDTKE: So, what you're referring to is the  
22 40, that I asked Mr. Trettel about in comparing that difference  
23 in that route to the November comparison is the final matrix  
24 that was developed in May of this year, in April of this year.

1 There's three more ratings that were done that we haven't.

2 MR. ELLSWORTH: I just want to be sure I  
3 understand the ratings that were given in February and I  
4 understand that there was a South Route given a rating of 44 in  
5 February.

6 MS. LUDTKE: Forty-one.

7 MR. ELLSWORTH: I understood that was the  
8 northern. Did I miss that?

9 MS. LUDTKE: No. The south was 41 and the  
10 northern was 23 in February.

11 MR. CANNATA: I think there's some confusion in  
12 the numbers that were put forth on the Shelburne requested  
13 reevaluation, and I think that's the last one, that I'm confused  
14 on also.

15 MR. ELLSWORTH: And that's the one that I'm  
16 referring to and I understood you to say was a request by  
17 Shelburne.

18 MS. LUDTKE: The February request was a response  
19 to a data request and I'll give you the citation on that when I  
20 get the document back, so you can see in the FERC data request  
21 there was an additional response to Public Counsel's February  
22 data request that resulted in yet another rating which we  
23 haven't reached yet.

24 MR. ELLSWORTH: But at this point in time, I want

1 to just ask for a clarification on the third one that you have  
2 brought to our attention so far.

3 MS. LUDTKE: Okay.

4 MR. ELLSWORTH: What are those numbers again,  
5 please, and to what do they refer?

6 MS. LUDTKE: Forty one is the Southern Route and  
7 that is actually -- it is what is called option -- the Shelburne  
8 Option now and it's through the golf course.

9 MR. PATCH: And the FERC proposed one?

10 MS. LUDTKE: That is the FERC proposal. That's  
11 the data request that FERC asked them to evaluate a routing  
12 through the Shelburne golf course.

13 THE WITNESS: That's correct.

14 MR. ELLSWORTH: And at that point was there a  
15 northern reevaluation made?

16 MS. LUDTKE: The northern reevaluation that was  
17 made at that time was 23, I believe.

18 THE WITNESS: That's correct.

19 MR. ELLSWORTH: And then what was -- and then  
20 I'll be quiet, and then what was that specific Northern Route  
21 that received the 23?

22 MS. LUDTKE: The same one that received the 9.

23 MR. PATCH: The yellow line.

24 THE WITNESS: No. That's not correct because

1 it's a different segment. The route that received the 9 was the  
2 larger -- it was a larger area. What we evaluated for FERC was  
3 from here to here and compared with their proposed diversion  
4 south.

5 MR. ELLSWORTH: And what number was assigned to  
6 that route for that FERC proposed golf course crossing?

7 THE WITNESS: Forty-one.

8 CHAIRMAN VARNEY: Does everyone understand that  
9 there is a different linear aspect to these alternatives and you  
10 need to keep that in mind? Michael.

11 MR. CANNATA: My last question is, there was a  
12 rating given of 41 versus 44 and is it correct that the  
13 Shelburne requested reevaluation had a 41 versus 44 rating?

14 THE WITNESS: There is -- can you repeat the  
15 question.

16 MR. CANNATA: As I understood Ms. Ludtke's cross  
17 examination, there was a Shelburne request for reevaluation and  
18 I believe it was probably of the November analysis, that came  
19 out a rating of 41 versus 44.

20 THE WITNESS: That's correct.

21 MR. CANNATA: All right. The 41 was associated  
22 with which route?

23 THE WITNESS: With the PNGTS proposed route.

24 MR. CANNATA: Which is the Northern Route?

1 THE WITNESS: That's correct.

2 MR. CANNATA: Okay. And I think that's where  
3 some of the conversion -- and then the 44 was the golf course  
4 route?

5 THE WITNESS: No. Forty-four was --

6 MR. CANNATA: The Gorham South.

7 THE WITNESS: The Gorham South.

8 MR. CANNATA: Gorham South, okay.

9 MR. SCHMIDT: Could you give us comparable  
10 numbers for the golf course route, comparison of the golf course  
11 route to the north of the river route.

12 MS. LUDTKE: Mr. Schmidt, I'm going to be getting  
13 to that, if you want --

14 MR. SCHMIDT: Okay. Thank you.

15 MS. LUDTKE: I mean we can do that now, if you  
16 want, but we will be getting to that.

17 MR. SCHMIDT: No. Continue.

18 MS. LUDTKE: Let me give the Committee the cite  
19 on the February routing. It's a FERC data request. It's  
20 attachment 20-1 to question 20 and it's dated February 3, 1997  
21 and the title is "Shelburne by-pass".

22 MR. KRUSE: Mr. Chairman you have Exhibit 21-A  
23 there, in case -- for additional documents to which Ms. Ludtke  
24 is likely to refer.

1 Q. Now, Mr. Trettel, you did another evaluation didn't you,  
2 with more criteria in it, in response to a data request by  
3 Public Counsel?

4 A. That's correct.

5 Q. And that data request was filed in February, correct?

6 A. I'm not sure on the date, but I believe so.

7 Q. And let me give the Committee the cite on that data  
8 request. It's 9 through 12, appendix 3, section 2, dated  
9 March 28, 1997, and in your evaluation that you did on that  
10 you compared four alternatives; one called "Revision,"  
11 another "Gorham South, Gorham North, and Shelburne,  
12 correct?

13 A. Correct.

14 Q. Do you recall what values you came out with at that point?

15 A. I don't recall the exact numbers but I can try to find  
16 them.

17 Q. Well, I represent to you that --

18 MR. KRUSE: Let him find them please, so he can  
19 review the documents, so that he knows where you are.

20 A. This exhibit doesn't have that version of it.

21 Q. Would you like to see mine?

22 A. This is the most recent.

23 CHAIRMAN VARNEY: Where do we find this?

24 MS. LUDTKE: This is in the data request 9

1 through 12, appendix 3, section 2, of the March 28th responses.

2 A. Okay.

3 MR. ELLSWORTH: And as you explain them could you  
4 help define the routes as you give us the numbers?

5 A. What we evaluated in this diversion assessment basically is  
6 the same alternative that I identified before, the Gorham  
7 North and South and the Shelburne, which was what FERC had  
8 requested us to look at, went across the golf course and  
9 our proposed route, PNGTS proposed route.

10 Q. And the results you came out with were 30 for the revision?

11 A. That's correct.

12 Q. Thirty-four Gorham North?

13 A. Correct.

14 Q. Thirty-four Gorham South?

15 A. Correct.

16 Q. And 36 Shelburne?

17 A. Correct.

18 Q. And that's the golf course option, correct?

19 A. Correct.

20 Q. Now, you hadn't done any more field work, had you, since  
21 you did the ratings for the FERC?

22 A. I don't recall. We didn't do any environmental field  
23 surveys, no.

24 Q. You wouldn't normally be doing environmental field surveys

- 1 in February up north, would you.
- 2 A. No.
- 3 Q. So, between the time you did the FERC rating and the time  
4 you did this rating, you didn't do any more field work?
- 5 A. We may have done reconnaissance, as I described before.
- 6 Q. Did you send this rating off to FERC and say we did another  
7 rating and we evaluated some different routes and here they  
8 are?
- 9 A. No, we did not.
- 10 Q. So, this hadn't been provided to FERC, is that correct?
- 11 A. I don't believe so, no.
- 12 Q. To the best of your knowledge it hasn't.
- 13 A. To the best of my knowledge.
- 14 Q. And then you met with the Town of Shelburne and you did  
15 another rating, right?
- 16 A. That's correct.
- 17 Q. And that was April 7th, correct?
- 18 A. Yes.
- 19 Q. And that rating came out with even different numbers,  
20 right?
- 21 A. Correct.
- 22 Q. And you didn't do any field work between the February  
23 rating and the time you did this one in April, did you?
- 24 A. We didn't do any more field work but we did additional

1 analysis and there is no -- we had received additional  
2 information from the town and reevaluated, yes.

3 Q. What additional information did you receive from the town  
4 that caused you to change the numbers on this?

5 A. Just they identified more of their visual and new corridor  
6 concerns and we readjusted our numbers to give a greater  
7 weight to those.

8 Q. What information specifically caused you to -- you said  
9 this was an objective process. So, what information  
10 specifically did they give you that you didn't know before  
11 that caused you to change the numbers?

12 A. I can't answer that specific information.

13 Q. So, right now as you are testifying, you don't know what  
14 information they gave you?

15 A. That's true.

16 Q. But the numbers changed?

17 A. Correct.

18 Q. And do you have that in front of you?

19 A. Yes.

20 Q. And the revision went from 30 to 36, correct?

21 A. I guess I don't have that version. There's been a few  
22 variations in this. Yes.

23 Q. And the Gorham South went from 34 to 45?

24 A. Yes.

- 1 Q. And the Gorham North went from 34 to 44?
- 2 A. Correct.
- 3 Q. And the Shelburne went from 36 to 42, correct?
- 4 A. Correct.
- 5 Q. Now, Mr. Trettel, is there any way that anyone who, for  
6 example, has your comparable expertise in environmental  
7 matters could, by just going through the data, generate  
8 these same rankings?
- 9 A. I doubt if any two people would end up with the exact same  
10 numbers. What is important, what we're trying to show is  
11 the relative constraint. The actual number can vary  
12 between different people analyzing the data.
- 13 Q. So, it would be reasonable to expect a fair degree of  
14 variation in the numbers just by having two people of  
15 comparable abilities go through the data and apply the  
16 ranking system?
- 17 A. That's correct.
- 18 Q. So, a difference of say, for example, three or four or five  
19 points shouldn't be considered to be an overly significant  
20 difference, given there can be this kind of variation in  
21 application of the criteria?
- 22 A. There can be some variation, true.
- 23 Q. So it really isn't the kind of system that you can look at  
24 and it has the precision that you can say, well, this is

1           one point better or worse than this, so I know this is the  
2           better choice?

3    A.    That is correct.

4    Q.    And you did another ranking after you did that ranking that  
5           you have there, is that right?

6    A.    That's correct.

7    Q.    And that ranking that you see there is the same routes that  
8           were ranked in response to Public Counsel's data requests  
9           in February, is that correct?

10   A.    Yes.

11   Q.    Okay.  And the next ranking you did in the end of April, is  
12          that correct?

13   A.    I believe that's when it was.

14   Q.    Now, did you get any more information between the time you  
15          did that ranking and the time you did the ranking in the  
16          end of April that would have caused you or another  
17          evaluator to make a different judgment about what value  
18          should be assigned to each category?

19   A.    Yes.  We had met with the town and we had --

20                   MR. PATCH:  Which town?

21   A.    The town of Shelburne and we kind of went through all the  
22          parameters again and gave it another close look as far as  
23          additional field data, no, that hadn't been -- no  
24          additional field work data had been generated.

1 Q. Did the Town give you any other documents or data between  
2 the April ranking and this other next ranking that caused  
3 you to make a change in any of the values? Did you find  
4 out anything you didn't know before?

5 A. I wouldn't say anything new, no, not exactly.

6 Q. So, to the best of your knowledge, you didn't learn  
7 anything new between the time you did the ranking, the  
8 first ranking in April and the time you did the second  
9 ranking in April, is that correct?

10 A. Not new concrete data, but we have a better indication of  
11 their specific concerns.

12 Q. Well, what specifically did they tell you in April that you  
13 didn't know when you did the first ranking in April?

14 A. Well, they pointed out specific areas of what they  
15 perceived to be an aesthetic impact that we didn't perceive  
16 to be an aesthetic impact.

17 Q. And they hadn't pointed those areas out before you did the  
18 ranking in April, the first ranking?

19 A. Not specifically.

20 Q. And what would that have been? I mean perhaps you could  
21 give us a specific example of something they pointed out  
22 that really caused you to go back and evaluate the ranking  
23 and make these changes?

24 A. Well, they identified aesthetic impact concerns in areas

1           where we would be crossing North Road. We previously  
2           hadn't considered that to be a major concern and pointed  
3           out if we had recognized the Reflection Pond, which we did.  
4           They pointed out some other areas through discussions of  
5           along Route 2 where they had perceived --

6                         STENOGRAPHER: "Where they perceived?" I lost  
7           you.

8           A. Perceived it to be visible.

9                         MR. KRUSE: Mr. Trettel, will you use the mic  
10          please.

11          Q. Now, Mr. Trettel, just so I'm clear, there had been no  
12          route changes, had there.

13          A. No.

14          Q. So, the only knew information that you really had between  
15          let's say the February ranking and this latest ranking in  
16          the end of April were visual impacts and concerns of the  
17          Town of Shelburne, nothing concrete, correct?

18          A. I'm not sure if we had done any additional engineering.

19                         MR. KRUSE: You can inquire from someone on the  
20          panel if you need to.

21                         MS. LUDTKE: Well, I think it would be better,  
22          why don't I just finish with Mr. Trettel and then Mr. Morgan can  
23          testify.

24          Q. Mr. Trettel, do you know of any? Do you have personal

1 knowledge of anything?

2 A. No, I don't.

3 Q. Now, the last ranking you did, and this was number 6 I  
4 think, and it's contained in the May 9th responses to the  
5 data requests, May 9, 1997. It's number 9 and it's called  
6 major diversion assessment for the revision and that -- do  
7 you have that in front of you?

8 MS. SCHACHTER: May I ask a clarifying question?

9 At the end of April, the new evaluation, were there numbers  
10 associates with that?

11 MS. LUDTKE: Yes. These numbers right here.  
12 This is number 6 if you are keeping track.

13 THE WITNESS: That's correct.

14 Q. Do you have that in front of you?

15 A. Yes.

16 Q. What number did you get for the revision?

17 A. Forty-one.

18 Q. And Gorham South?

19 A. Forty-five.

20 Q. Gorham North?

21 A. Forty-four.

22 Q. And Shelburne?

23 A. Forty-five.

24 Q. So, Shelburne went up from 42 to 45. What caused you to

- 1           make that increase?
- 2    A.    I don't -- I can't say specifically which parameters were  
3           increased.
- 4    Q.    You don't have any knowledge right now regarding that?
- 5    A.    I'd have to sit down and compare them.
- 6    Q.    Okay.  And Gorham South and Gorham North stayed the same,  
7           correct?
- 8    A.    Yes, they did.
- 9    Q.    And your revision went from 36 to 41, correct?
- 10   A.    That's correct.
- 11   Q.    And what caused you to increase your revision, what  
12          information?
- 13   A.    I think we increased the constraint associated with the new  
14          corridor.  We increased the constraint associated with  
15          forest land to clear and I believe we increased the  
16          constraints associated with landowner concerns based on the  
17          relative concerns at the time.
- 18   Q.    And you didn't know about the new corridor before that last  
19          ranking was done in April?
- 20   A.    No, we did.
- 21   Q.    But you just changed the number.
- 22   A.    Yes.
- 23   Q.    And you didn't know about forest land to clear until you  
24          did the last ranking in April?

1 A. No, we knew about it.

2 Q. So, you just changed the number?

3 A. That's correct.

4 MR. PATCH: Can I just ask, when we refer to "the  
5 revision" now we're talking about the mustard colored line on  
6 that map?

7 THE WITNESS: Yes. The revision refers to the  
8 entire Northern New Hampshire Revision.

9 MR. PATCH: I just want to make sure it's the  
10 mustard colored line and not the red lines. I just want to make  
11 sure I understand that. Has it changed yet to the red line in  
12 this evaluation or not?

13 THE WITNESS: No. It has not.

14 MR. CANNATA: Ms. Ludtke, can I impose on you to  
15 go back over your latest line of questions. You lost me on your  
16 last couple of questions.

17 Q. All right. Mr. Trettel, you changed the revision ranking  
18 from to 36 to 41, correct?

19 A. Correct.

20 Q. And you testified, I believe, it was due to three factors;  
21 forest land to clear, new corridor, and visual impacts,  
22 correct?

23 A. That is what I stated. I would have to review the data to  
24 see which ones we increased, but I know we increased some

1 numbers.

2 Q. And you didn't obtain any new information regarding new  
3 corridor and forest land to clear, you just increased the  
4 number, correct?

5 A. That's correct.

6 MR. CANNATA: Thank you.

7 Q. Now, when you did these new rankings the numbers became a  
8 lot closer didn't they?

9 A. They became closer, yes.

10 Q. I mean they started out as 9 to 17, which was a difference  
11 of almost 100% in November, correct?

12 MR. KRUSE: Can we establish which routes you're  
13 referring to? I think there will be a difference in how the  
14 numbers apply to different variations of routes.

15 Q. Mr. Trettel, going back to your November ranking, that was  
16 ranking the Northern Route.

17 A. That's correct.

18 Q. Against the Gorham South Route, correct?

19 A. That's correct.

20 Q. And there was a difference of almost a hundred percent,  
21 correct?

22 A. Correct.

23 Q. And now the ranking that you did in April has a difference  
24 of -- between Gorham South and the revision of four points,

- 1 correct?
- 2 A. That's correct.
- 3 Q. And that would be about a ten percent difference, maybe a  
4 little less, correct?
- 5 A. Yes.
- 6 Q. So, we went from almost one hundred percent to not quite  
7 ten percent?
- 8 A. That's correct.
- 9 Q. That's a big change.
- 10 A. That's correct.
- 11 Q. Did you ever tell FERC about this change? Did you ever  
12 send this ranking to FERC and say look we've really changed  
13 our views about this?
- 14 A. Well, we -- no, we didn't provide any additional  
15 information to FERC. However, FERC does not require us to  
16 provide additional information. They conduct their own  
17 objective analysis.
- 18 Q. Well, yesterday you testified repeatedly about how FERC had  
19 made this objective decision about which was the better  
20 route and their objective decision matched yours. Do you  
21 recall that?
- 22 A. Yes, I do.
- 23 Q. And don't you think their objective decision would be based  
24 upon information that you're providing them, since you're

1 the one that's doing all of the field work on the route?

2 A. I don't believe they would base it on our alternative  
3 routes, they would base it on their objective review of the  
4 data, of the raw data, that was provided in the filing.

5 Q. So, the last time you provided any raw data to them was  
6 when, regarding this issue?

7 A. It would have been in December of '96 in our filing,  
8 supplemented with data requests.

9 Q. So, the raw data that they're using to make their so called  
10 objective decision is the same raw data that you evaluated  
11 in November of 1996 and came up with almost 100%  
12 difference, correct?

13 A. They -- yes. They didn't have the benefit of the close  
14 coordination with the town and hearing the town's concerns  
15 and some of the other parameters but, yes, they are  
16 evaluating the same data.

17 Q. So, their so called "objective analysis," that you referred  
18 to yesterday, that agreed with your own choice of the  
19 route, was based upon the data that caused you to look at  
20 those routes as almost 100% different in 1996?

21 A. That's correct.

22 Q. And you don't think their views might have been changed by  
23 all this additional information that you obtained that  
24 caused you to come out with less than a 10% difference on

1 all the routes?

2 A. I can't speak to that.

3 Q. Would you call this 10% difference in points significant?  
4 Does it really clearly show a preferred route or a better  
5 route?

6 A. Statistically, no.

7 Q. In fact, in other matrixes that you've done on other  
8 portions of the route, you've seen a difference of three,  
9 for example, on the points and indicated that that really  
10 didn't determine a route one way or the other?

11 A. I'm not --

12 Q. Are you familiar with the ratings for College Swamp?

13 MR. KRUSE: Let him just complete the answer to  
14 your question, please.

15 A. Yeah, I don't know the specific numbers you're referring  
16 to.

17 Q. Let me call your attention, Mr. Trettel, to a data request  
18 and it's question 18 and it pertains to College Swamp  
19 Brook, are you familiar with that?

20 A. Yes.

21 Q. And you did a diversion assessment there, didn't you?

22 A. I don't --

23 Q. Let me show you it, okay.

24 A. This is in Maine.

1 Q. Well, what does your diversion assessment show in terms of  
2 a difference on the numbers?

3 A. Three points.

4 Q. Can I have that back. And let me go back over to the  
5 previous page, Mr. Trettel, and let me read you what you  
6 said about the diversion assessment there.

7 MR. KRUSE: Can he have that in front of him,  
8 please, while you're reading. I'm sorry to interrupt, Leslie, I  
9 just want him --

10 Q. Well, maybe you can just start reading it, Mr. Trettel, if  
11 you could start with "for these reason, PNGTS" and you can  
12 read it to the Committee.

13 A. "Although some additional clearing may be required on the  
14 west side, this impact is already offset by the constraints  
15 and effects associated with College Swamp Brook on the east  
16 side. For this reason -- for these reasons PNGTS believes  
17 that the short term and the long term impacts to College  
18 Swamp wetlands would be similar regardless of the site of  
19 the crossing."

20 Q. So, in that case when there was a three point difference  
21 you talked about the similarity of impacts?

22 A. Well, I'm not sure what the -- with regard to the wetland  
23 parameter of it we had the same constraint value. There  
24 were other constraints, engineering and economic, that were

1 different. So, when you compare the actual wetland impact,  
2 we perceive it to be similar on both sides.

3 Q. You wouldn't testify that that indicated a clear routing or  
4 a clear winner in terms of preferred routing one way or the  
5 other, would you Mr. Trettel?

6 A. No, it would not.

7 Q. Well, let me ask you about that, because I think you  
8 distinguish there regarding a different type of constraint.  
9 There's three types of constraints that are in your matrix,  
10 correct?

11 A. Correct.

12 Q. And those are environmental constraints, right?

13 A. Yes.

14 Q. Land use constraints.

15 A. Yes.

16 Q. Engineering constraints, right?

17 A. Yes.

18 Q. Now, you wouldn't agree with the following statement that  
19 the lowest overall score means that construction of this  
20 alternative would involve the fewest environmental land use  
21 and engineering constraints, would you? I mean just by  
22 adding it up, one can't make that judgment?

23 A. Based on our analysis, yes, you could make that judgment.

24 Q. Okay. So it's your testimony that all one has to do is to

1           add up the score and whichever has the lowest score has the  
2           least amount of constraints, correct?

3    A.    Based on the available information at the time when we  
4           perform the analysis.

5    Q.    Now, when you refer to "engineering constraints," those  
6           aren't cost based are they?  In fact, a route can come up  
7           with a higher number of engineering constraints but  
8           actually be less costly to construct, correct?

9    A.    I'm not the right person to ask about that.  I think in  
10           general engineering constraints equate to cost.

11   Q.    Well, you don't know, do you?

12   A.    I don't.  I'm not the expert, no.

13   Q.    And do you recall having this conversation at a meeting in  
14           Shelburne when Mr. Morgan indicated that was not the case?

15   A.    I recall some decision along those lines, yes.

16   Q.    And in fact, the way in which your engineering constraints  
17           the evaluation criteria -- well, strike that.  The way in  
18           which the evaluation criteria are set up on your  
19           engineering constraints, you may have a pipeline cross over  
20           constraint and a new corridor to clear constraint.  Those  
21           might be two constraints, correct?

22   A.    Correct.

23   Q.    And in fact, the new corridor to clear could be  
24           considerably more expensive than the pipeline crossover?

- 1 A. I really can't say. I mean it depends on the length of the  
2 corridor.
- 3 Q. Okay. Well, let's take this for example, take two routes,  
4 hypothetical routes, and let's say one route had more  
5 engineering constraints but was cheaper than another route  
6 to construct, that could happen, correct?
- 7 A. I can't say.
- 8 Q. And that route that was cheaper to construct but had more  
9 engineering constraints also had lower environmental  
10 constraints, possible?
- 11 A. Possible.
- 12 Q. So, when you added the numbers up that route might have a  
13 higher total value than another route that might be more  
14 expensive to construct with more environmental constraints,  
15 correct?
- 16 A. Correct.
- 17 Q. So, that could happen?
- 18 A. Potentially, yes.
- 19 Q. And when you add these numbers up to try to get a judgment  
20 and make a judgment about which route you're going to  
21 select, each particular rating category is counted as equal  
22 to other rating categories, correct?
- 23 A. We attempt to do that, yes.
- 24 Q. So, for example, if one of the rating categories is "new

1 corridor" that would be considered as equal to, for  
2 example, cultural resources?

3 A. That's correct.

4 Q. The Army Corps doesn't use that type of rating does it?

5 A. No, they don't.

6 Q. In fact, they don't use matrix at all, do they, with  
7 weighting?

8 A. They use a variation. They don't use the same methodology  
9 we use, no.

10 Q. Well, let me show you a -- you referred to in your  
11 testimony the U.S. Army Corps highway methodology for  
12 siting linear projects, do you recall that?

13 A. Right.

14 Q. Let me show you a matrix that I represent to you was taken  
15 out of that book. It's page 14 of that book. Take a look  
16 at that, Mr. Trettel.

17 MR. KRUSE: Do you have another copy of that with  
18 you.

19 MS. LUDTKE: I'll get you a copy.

20 MR. KRUSE: I may have to interrupt you on the  
21 questions, depending on how they are, without having a chance to  
22 see it, but go ahead.

23 Q. Are you familiar with that matrix?

24 A. Not intimately familiar, but I have seen this before.

- 1 Q. And the way in which their matrix works is they actually  
2 put the underlying data on their matrix, don't they?
- 3 A. That's correct.
- 4 Q. And if you could refer down to the first paragraph, the  
5 phrase that begins with "the matrix" and read that to the  
6 Committee?
- 7 A. Which one? I'm not sure.
- 8 Q. It's the first paragraph, right here, "the matrix," if you  
9 could just read that sentence to the Committee.
- 10 A. "The matrix should not display weightings. Team  
11 members --" Oh, just that sentence.
- 12 Q. So, the Army Corps doesn't go with a matrix like your  
13 matrix that just displays numbers and then changes the  
14 numbers over time?
- 15 A. Apparently not. I can't speak for them.
- 16 Q. So, that's not, for example, the Army Corps would make a  
17 LEDPA determination, a least environmentally damaging  
18 practical alternative determination, they wouldn't use a  
19 matrix like yours?
- 20 A. I can't say how they would make that determination.
- 21 Q. Are you aware of any governmental agency that uses a rating  
22 system like yours to make routing decisions?
- 23 A. No, I'm not.
- 24 Q. And in fact, no governmental agency accepts your type of

1 matrix for making routing decisions, do they?

2 A. I wouldn't say that. I think that FERC has accepted them,  
3 our matrix.

4 Q. Well, they certainly want the underlying data.

5 A. That's correct and we send it to them.

6 Q. But you testified previously that the underlying data that  
7 you sent to FERC was dated back in December of 1996.

8 Correct?

9 A. Correct?

10 Q. And your matrix changed what, four or five times since  
11 then, right?

12 A. Correct.

13 MR. KRUSE: Could we just read the whole  
14 paragraph which from which he read, just so the record is more  
15 complete?

16 MS. LUDTKE: If he would like to, sure.

17 A. The paragraph reads: "A written assessment and summary  
18 matrix of the various alternatives being considered with  
19 respect to resource impacts and other appropriate  
20 considerations should accompany the graphics. The matrix  
21 should not display weightings. Team members should be  
22 presented with unweighted data, each bringing his or her  
23 own concerns to the workshop. A partial sample matrix is  
24 shown here." I could continue.

1 Q. Now, Mr. Trettel, yesterday you said you worked on a panel  
2 testimony when you were with Mike Morgan and the other  
3 witnesses who were sworn in today.

4 A. Correct.

5 Q. Now, when I went through the testimony I extracted the  
6 following phrase and I just want to know whether you agree  
7 with it, since you were part of the panel that prepared  
8 that testimony and that says that "PNGTS's conclusion,  
9 unequivocally supported by FERC staff, was that the  
10 disadvantages clearly outweigh the purported advantages of  
11 such alternatives" and that phrase is referring to the  
12 choice of your revision over any of the other  
13 alternatives." Do you agree with that?

14 MR. KRUSE: Can you give us a page reference  
15 please?

16 MS. LUDTKE: I actually don't have a page  
17 reference marked but it's in Mr. Morgan's testimony. Justin  
18 will find it and give you the reference.

19 Q. Do you agree with that?

20 A. The FERC was clear in their conclusions.

21 CHAIRMAN VARNEY: Did you say you have the page  
22 reference or not?

23 MS. LUDTKE: I'll get you the page reference for  
24 it.

1                   CHAIRMAN VARNEY: I think we would like to be --  
2 it would be good to know the context in which it was stated.

3                   MS. LUDTKE: It's page 6. I'll call your  
4 attention to line 17, page 6.

5 A. I would agree with that.

6 Q. See that?

7 A. Yes.

8 Q. So, you agree that based on your most recent ranking with  
9 the most current data, the best evaluation you could do  
10 after going over and over your data, that you can say that  
11 the disadvantages clearly outweigh the purported advantages  
12 with a difference of three points?

13 A. I wouldn't say based solely on that version assessment, but  
14 I would say our route is clearly better than the Shelburne  
15 Route.

16 Q. And you base it on something other than the diversion  
17 assessment?

18 A. Best professional judgment of the team, with the diversion  
19 assessment as a tool used in facilitating -- helping to  
20 route, make route selections.

21 Q. And you would agree that the diversion assessment doesn't  
22 show a clear winner one way or the other wouldn't you?

23 A. I would agree with that, yes.

24 Q. So, your judgment that it is a better route is not -- does

1 not rest upon the diversion assessment, it rests on  
2 something else.

3 MR. KRUSE: I believe he said, already testified  
4 that it was a part of the -- it was a tool in that process.

5 Q. Mr. Trettel, if you could answer the question, does your  
6 selection of that route and your agreement with the  
7 statement that I read to you rest on something other than  
8 the diversion assessment?

9 A. It's based on the diversion assessment and the best  
10 professional judgment of the engineering and environmental  
11 team that proposed the route.

12 Q. And if the Committee wanted to determine what information  
13 it was based on in addition to the diversion assessment,  
14 where should they look?

15 A. They should look to all the of the environmental data that  
16 has been provided to them.

17 Q. And is it your testimony that someone who has your  
18 qualifications and your abilities could go through that  
19 data and going through that data would reach the same  
20 conclusion that you reached, that it's a clear advantage to  
21 route with the revision?

22 A. I would say an unbiased reviewer would come to that  
23 conclusion.

24 Q. And specifically what data that isn't reflected in the

1 diversion assessment would lead an unbiased reviewer to  
2 that conclusion?

3 A. Well, nothing that's not included. I mean --

4 Q. Well, let me go back to the diversion assessment. You  
5 agree the diversion assessment doesn't show a clear winner  
6 or loser, correct?

7 A. It shows a winner, but you know, I agree with your point  
8 that there is not a wide range between the two.

9 Q. And in fact, if someone else applied the same -- your  
10 rating system or your ranking system to that criteria they  
11 could come up with a difference of three the other way?

12 A. That's possible.

13 Q. So, that diversion assessment itself does not show a clear  
14 winner or loser, correct?

15 A. Our diversion assessment shows our route is preferred.

16 Q. Does it show a clear winner or loser, Mr. Trettel?

17 A. It shows a -- yes.

18 Q. Yes or no?

19 A. It shows that our route has a lower relative constraint  
20 value than the other routes evaluated.

21 Q. Well, let me move on to the LEDPA determination. You refer  
22 to the LEDPA determinations and in fact your attorney asked  
23 you about one of the exhibits containing some LEDPA  
24 material, correct?

- 1 A. That's correct.
- 2 Q. And that would be a determination made by the Army Corps of  
3 Engineers as to the least environmentally damaging  
4 practical alternative, correct?
- 5 A. Correct.
- 6 Q. And probably the most important criteria that the Army  
7 Corps considers in making LEDPA determinations is use of  
8 existing corridors, right?
- 9 A. Use of existing corridors while considering potential  
10 impacts to the resources under their jurisdiction.
- 11 Q. And your attorney asked you about a letter from a  
12 Mr. Lawless relative to the LEDPA determination on the  
13 Northern Route, correct?
- 14 A. That's correct.
- 15 Q. And in fact, the LEDPA determination on the Northern Route  
16 was made on the Gorham South routing, wasn't it? I mean  
17 isn't that the LEDPA determination?
- 18 A. The LEDPA determination was made on that route but it  
19 applies to all -- as it states in the letter, it applies to  
20 all areas where we are parallel to existing corridors.
- 21 Q. You don't have a LEDPA determination on the revision, do  
22 you?
- 23 A. We don't have a written LEDPA determination. We have an  
24 interpretation by the Corps of our entire project that

1           wherever we are aligned along existing corridors that that  
2           constitutes LEDPA.  Where we're not along existing  
3           corridors they need to do further analysis in order to  
4           determine LEDPA.

5    Q.   Well, in fact, yesterday you testified that you did not  
6           consider the alignment along certain areas of Hogan Road as  
7           on an existing corridor and I think you talked about the  
8           changes in your existing corridor or values relative to the  
9           new proposal that you gave us, what, a couple of days ago,  
10          I guess, right?

11   A.   That's right.  Initially the way the route was aligned, it  
12          was offset slightly from the existing corridor, which was  
13          Hogan Road.  Our new proposal places pipeline within the  
14          existing corridor of Hogan Road.

15   Q.   Well, Mr. Truttel, do you or do you not have a LEDPA  
16          determination on the revision?

17   A.   We don't have a written LEDPA determination.  We have an  
18          interpretation from the Corps of Engineers of Project 1.

19   Q.   And the only written LEDPA determination you had is for the  
20          Gorham South Route, right?

21   A.   That's correct.

22   Q.   So, in terms of the LEDPA, that favors the Gorham South,  
23          correct?

24   A.   Is that -- I don't think it would favor the Gorham South.

1 Q. Well, you have one written LEDPA determination and that's  
2 for the Gorham South, correct?

3 A. That's correct.

4 Q. And you don't have one for the Northern Revision?

5 A. We don't have a written determination, no.

6 Q. Now, are you familiar with Resource Report 10?

7 A. In the FERC report, yes.

8 Q. And in your Resource Report 10 you refer to the way in  
9 which you develop certain criteria on your matrix system,  
10 correct?

11 A. That's correct.

12 MR. KRUSE: Excuse me. Can we have the exhibit  
13 or do you mind my interrupting to get him the exhibit.

14 MS. LUDTKE: No, that's fine.

15 MR. KRUSE: Is this for the North or the South or  
16 both.

17 MS. LUDTKE: I have mine and the one I'm going to  
18 be asking him on is Resource Report 10. It's the Joint Pipeline  
19 Project, 10-7.

20 MS. PATTERSON: Mr. Kruse, I just have a  
21 question. You have this marked as Exhibit 57. Was this  
22 submitted to the Committee previously?

23 MR. KRUSE: The resource report?

24 MS. PATTERSON: Yes.

1 MR. KRUSE: I believe so, because they were  
2 submitted with a response, I think, data requests some time ago.

3 MS. PATTERSON: It's just that on your exhibit  
4 list a lot of them are identified as to source and this one  
5 isn't identified as to source.

6 MR. KRUSE: Most of the time when I was going  
7 through and identifying source it was to try to keep track of  
8 the data requests and I'd have to go back and check.

9 MR. IACOPINO: Well, it says supplement to  
10 PNGTS's FERC application.

11 MR. KRUSE: Yeah, that's where it came from and  
12 now the question I think is fairly put, whether it was supplied  
13 to the Committee before.

14 Q. Mr. Trettel do you have Resource Report 10.

15 A. Yes, I do.

16 Q. If you could turn to page 10-7?

17 A. Yes.

18 Q. And you see in the first paragraph discussion about how  
19 your rating matrix is developed based upon 18 C.F.R. 2.69  
20 and the Army Corps of Engineer's highway methodology for  
21 siting linear projects, see that?

22 A. I think you may be looking at a different version of this  
23 or a different filing. I have that --

24 Q. I have -- actually this is Maritimes and Northeast on

1 joint. Here, let me give you my copy, here. It's the  
2 joint one.

3 A. Yes.

4 Q. And you see down in the middle of the page how it  
5 summarizes the six criteria or six bullets relative to the  
6 main criteria used by -- used by the Army Corps of  
7 Engineers and set forth in 18 C.F.R. 269? Do you see that?

8 A. Correct, yes.

9 Q. All right. And lets just go through those criteria  
10 briefly. The first one would be use of existing  
11 right-of-ways practical by enlargement or extension,  
12 correct?

13 A. Yes.

14 Q. And then two, where practical avoid national registered  
15 parks, scenic, wildlife and recreational lands, correct?

16 A. Yes.

17 Q. Three, locate in areas less visible to the public?

18 A. Yes.

19 Q. Four, avoid heavily timbered areas and steep slopes where  
20 practical.

21 A. Yes.

22 Q. Five, avoid long views of cleared roads visible from  
23 highways and other areas of public view?

24 A. Yes.

- 1 Q. And six, where practical right-of-ways should not cross  
2 hills or other high points at the crest, particularly when  
3 visible to the public.
- 4 A. That's right.
- 5 Q. Now, Mr. Trettel, perhaps we could use those six criteria  
6 which you say your ratings system is based on and compare  
7 the revision to the Gorham South Route.
- 8 A. I wouldn't say our rating system is purely based on this.  
9 This is what FERC states in 18 C.F.R, part 269.
- 10 Q. And that's also all the Army Corps criteria that is  
11 referred to for siting linear projects, correct?
- 12 A. I'm not sure?
- 13 Q. Well, you don't use a different rating system than the FERC  
14 or the Army Corps of Engineers to chose your route, do you?
- 15 A. No, we don't.
- 16 Q. So, your rating system is based upon the criteria set forth  
17 in 18 C.F.R. 2.69 and the Army Corps methodology, right?
- 18 A. Correct.
- 19 Q. And so these are the six main criteria that are primary  
20 criteria that the Army Corps and FERC would consider in  
21 making a routing decision, aren't they?
- 22 A. These are some of them, yes.
- 23 Q. Well, these are the six primary ones, wouldn't you agree?
- 24 A. I couldn't say. I haven't read the entire statute.

- 1 Q. Well, how many projects have you worked on Mr. Trettel?
- 2 Haven't you worked on a number of projects?
- 3 A. Yes, I have.
- 4 Q. And you aren't familiar with the Army Corps of Engineers
- 5 siting methodology and FERC criteria?
- 6 A. I am.
- 7 Q. And these are the six primary criteria that they look at,
- 8 aren't they?
- 9 A. I'm not going to say these are the primary. They are six
- 10 of their criteria, yes.
- 11 Q. Six very important criteria?
- 12 A. Yes.
- 13 Q. So, let's take these six criteria and lets compare the
- 14 revision to the Gorham South Route with these six criteria,
- 15 okay. First: "Use of existing right-of-way as practical
- 16 by enlargement or extension". Now, let's take your mustard
- 17 colored line and compare it to the Gorham South. Which one
- 18 uses more existing right-of-way?
- 19 A. Gorham South.
- 20 Q. So, Gorham South would appear to be favored under the first
- 21 criteria, right?
- 22 A. That's correct.
- 23 Q. Second: "Where practical avoid national registered sites
- 24 and parks, scenic, wildlife, and recreational lands". Now,

- 1 the revision goes through Leadmine State Forest, correct?
- 2 A. Yes.
- 3 Q. Crosses the Appalachian Trail?
- 4 A. Yes.
- 5 Q. Does Gorham South cross the Appalachian Trail?
- 6 A. Yes.
- 7 Q. And does it go through Leadmine State Forest?
- 8 A. Yes.
- 9 Q. So, which one would you rate as preferable under the Gorham  
10 South versus the revision, under the second criteria?
- 11 A. They both effect the same resources, the Gorham or the  
12 PNGTS's proposal would effect them for a far greater  
13 extent.
- 14 Q. So, you would rate Gorham South under number 2 as the  
15 preferred?
- 16 A. That's correct.
- 17 Q. Number three: "Locate in areas less visible to the  
18 public." There have been a lot of questions raised about  
19 visual impact of that routing, hasn't there?
- 20 A. Yes, there have.
- 21 Q. So, in terms of evaluating your proposed revision and the  
22 Gorham South, which one would be preferred under the third  
23 criteria?
- 24 A. I would say that the -- there would be visual impact on

1 both routes and the Gorham North would have clearing on  
2 more exposed areas than PNGTS proposed route.

3 Q. So, you would rate your revision as preferred under the  
4 third criteria?

5 A. Yes.

6 Q. Now, Mr. Trettel, I'm confused because before when I asked  
7 you about why those numbers changed on your rating in April  
8 you said it was because of your increased concerns about  
9 visual impact that the Town of Shelburne had communicated  
10 to you, correct?

11 A. That's correct.

12 Q. And are you considering those enhanced increased concerns  
13 about visual impact and rating the revision as the  
14 preferred route on number three over the Gorham South  
15 Route?

16 A. Would you repeat that question?

17 Q. Well, you said you changed the numbers on your other  
18 routing because you became a lot more aware of visual  
19 impacts and the Town of Shelburne communicated to you its  
20 concerns regarding visual impacts, is that correct?

21 A. That's correct.

22 Q. And that resulted in your changing those numbers and making  
23 them a lot higher on the revision?

24 A. That's correct. Yeah we -- that's correct.

- 1 Q. And so in fact, on your evaluation criteria you rated the  
2 visual impact on the revision as four, Gorham South zero,  
3 Gorham North zero and Shelburne as one. Do you recall  
4 that? Do you want to see it?
- 5 A. I don't recall the exact numbers. If they were ranked as  
6 zero that is incorrect, because there will be visual impact  
7 on both those routes.
- 8 Q. So, there is a mistake there?
- 9 A. Yes.
- 10 Q. Now, is it your testimony after looking at this that you  
11 would still favor the revision on the third criteria, which  
12 is "located in areas less visible to the public"?
- 13 A. Yes.
- 14 Q. Okay. Number four: "Avoid heavily timbered areas and steep  
15 slopes where practical". Which would you rate as  
16 preferred, the Gorham South or the revision?
- 17 A. The revision, basically in conjunction with our mitigation  
18 proposal. The Gorham South Route is longer, considerably  
19 longer, it follows forest land throughout, and it would  
20 result in actually more acreage of clearing than our  
21 proposal, the PNGTS proposal.
- 22 Q. And are you referring to the new PNGTS proposal that none  
23 of the underlying information has been provided and there  
24 is no alignment sheets provided on?

- 1 A. The original PNGTS proposal would have less acreage of  
2 clearing.
- 3 Q. Now, Mr. Trettel, is that conclusion based on a linear  
4 number of miles versus an acreage impact?
- 5 A. It's based on acreage impact.
- 6 Q. You've calculated the acreage impact of clearing and you've  
7 determined that Gorham South would require more clearing of  
8 heavily timbered areas than your revision?
- 9 A. Yes.
- 10 Q. How many miles did you consider the data for in reaching  
11 that judgment?
- 12 A. The Gorham route is 9.3 miles. PNGTS's proposed route is 6  
13 miles.
- 14 Q. And your acreage impacts are done on that whole expanse?
- 15 A. That's correct.
- 16 Q. Have they been provided to anybody? Did you ever provide  
17 that underlying data to Public Counsel or the Town of  
18 Shelburne or the Committee, so that the Committee could  
19 look at it?
- 20 A. We provided raw data. We provided the length of forest  
21 land cleared, not acreage of forest land cleared.
- 22 Q. So, you have never provided that data to anyone so we could  
23 check on your acreage calculations to see how you arrived  
24 at those numbers?

1 A. No, but someone could -- you could easily calculate those  
2 acreages based on the lengths and based on the information  
3 that has been provided.

4 Q. Now, with regard to steep slopes, is it your testimony that  
5 there would be more steep slopes on the Gorham South  
6 alternative than there would be on the revision?

7 A. Yes.

8 Q. So, Gorham South has more steep slopes than the revision  
9 does?

10 A. The revision as currently proposed, yes.

11 Q. Now, wait a minute, Mr. Trettel, are we talking about the  
12 new proposal that you gave us a couple of days ago or are  
13 you talking about -- or are we talking about the one that  
14 has been filed with this Committee that we have some  
15 information on.

16 MR. KRUSE: I think we need to clarify which one  
17 you're asking about, Ms. Ludtke, for purposes of his answering.  
18 He's prepared to answer with respect both to the revision and  
19 he's prepared to answer with respect to the mitigation plan for  
20 further changes to the Shelburne Route.

21 Q. Well, maybe we ought to talk about that a little bit, Mr.  
22 Trettel. All the evaluations that were done were done  
23 based upon that mustard colored line, is that correct?

24 A. That's correct.

1 Q. And in fact, there was no indication or suggestion from the  
2 applicants that that mustard colored line would be changed  
3 and that there would be a new routing that would be  
4 presented to this Committee until what, five days ago?

5 A. We had been talking to Shelburne and offering to try to  
6 work with them to develop a mitigation plan for a while and  
7 we hadn't gotten beyond the notion of overall routing. As  
8 far as getting any indication to the Committee that we were  
9 planing to file a mitigation plan, we hadn't done that?

10 Q. No alignment sheets have been filed?

11 A. No.

12 Q. No wetlands impact information has been filed on a new  
13 routing?

14 A. No.

15 Q. No underlying information has been filed on this proposed  
16 new routing, has it?

17 MR. KRUSE: What sort of information, please?

18 MS. LUDTKE: Well, why don't we go through the  
19 information.

20 Q. Have you filed any information on this new routing  
21 regarding acreage of wetlands impact?

22 A. Not specific to the new routing, but a lot of the  
23 information that has already been filed applies to this,  
24 because the change is not -- in some areas it is very

1 minimal, so information that had been provided before still  
2 applies.

3 Q. Have you filed alignment sheets on it?

4 A. No, we have not.

5 Q. Have you filed any permit applications with the agencies  
6 for it or submitted any revision to the permit  
7 applications --

8 A. No.

9 Q. -- based upon the new routing?

10 A. No, we have not.

11 Q. Have you filed any material with the state government at  
12 all regarding the new routing, other than the map that  
13 you've put up there and the information that you provided  
14 to this Committee in this exhibit that was offered in this  
15 hearing?

16 A. I believe in the earlier data requests we provided some  
17 narration of -- some narrative of general proposals to  
18 minimize clearing and do plantings at potentially visual  
19 areas, but as far as the details of this, that has not been  
20 done.

21 Q. No data, no documentation has been provided, correct?

22 MR. KRUSE: I would object to the general  
23 characterization of no data and documentation.

24 Q. Well, let's go on to the next category, "avoid long views

1 of cleared right-of-ways visible from highways or other  
2 areas of public view." Do you see that?

3 A. Yes.

4 Q. Okay. Now, which one would you rate as the preferred  
5 routing under that criteria?

6 A. If -- that's pretty close. I mean it's going to be visible  
7 from a number -- both routes would be potentially visible.

8 Q. Is it a tie on that one? Do they tie?

9 A. I would say there is more clearly exposed areas on the  
10 Gorham Route than the PNGTS.

11 Q. Okay. So, your revision is favored on that one too?

12 A. Yes.

13 Q. Six: "Where practical right-of-way should not cross hills  
14 and other high points at the crest, particularly when  
15 visible to the public."

16 A. That's correct.

17 Q. Which one would you rate as preferred under that criteria?

18 A. Both routes would cross, where parallel along existing  
19 corridors would cross crest of hills. So, I would rate  
20 them similar.

21 Q. Well, if you will to pick a winner?

22 A. They would both cross the visible hills right in the area  
23 of the center of Gorham. I couldn't pick a winner.

24 Q. So, that's a tie.

1 MR. CANNATA: Ms. Ludtke, for clarification, the  
2 two routes that we're comparing the six criteria are the  
3 revision route, as in the mustard color on the graph and the  
4 Gorham South route.

5 MS. LUDTKE: That's correct.

6 MR. CANNATA: Not the Shelburne?

7 MS. LUDTKE: Well, we could do the Shelburne  
8 Route too, if you would like.

9 MR. CANNATA: I would.

10 Q. Mr. Trettel, I think we have a question from one of the  
11 Committee members and maybe we could go back through this  
12 criteria and compare the revision to the Shelburne Route.  
13 Let's start with criteria number one, "use existing  
14 right-of-way as practical by enlargement or extension".

15 A. The Shelburne Route is the more existing right-of-way.

16 Q. All right. "Where practical avoid national register sites  
17 and parks, scenic, wildlife and recreational lands."

18 A. They both would cross the same -- the Leadmine State Forest  
19 and the Appalachian Trail. The Shelburne Route also  
20 crosses a golf course, which it does not -- it's a  
21 recreational area.

22 Q. Shelburne crosses Leadmine State Forest. Are you sure  
23 about that?

24 A. Yes.

1 Q. So, which would you rate as the preferred --

2 MR. PFUNDSTEIN: Excuse me, Mr. Chairman, in the  
3 interest of avoiding long questions on redirect, perhaps Ms.  
4 Ludtke would like to ask where the White Mountain National  
5 Forest is in relation to these routes.

6 Q. Mr. Trettel, we were talking about criteria number two and  
7 I was asking you which you would rate as the preferred  
8 under criteria number two?

9 A. Yes.

10 Q. And which would that be?

11 A. With our proposed mitigation proposal --

12 Q. Mr. Trettel, if you could confine yourself to the mustard  
13 colored line and not the proposed mitigation proposal?

14 A. I would say that the Shelburne Route would have less  
15 impact.

16 Q. Criteria three, "located in areas less visible to the  
17 public."

18 A. Ours, the PNGTS route.

19 Q. "Avoid heavily timbered areas and steep slopes where  
20 practical.

21 A. I don't have the exact numbers for acreage cleared, but I  
22 would suspect that there would be similar clearing along  
23 both routes.

24 Q. Which would be the preferred under that category?

- 1 A. It's going to be about a wash.
- 2 Q. "Avoid long view of cleared right-of-ways visible from  
3 highways and other areas of public view."
- 4 A. PNGTS's route.
- 5 Q. And number six, "where practical right-of-way should not  
6 cross hills and other high points at the crest,  
7 particularly when visible to the public."
- 8 A. Neither route would.
- 9 Q. That's a tie too?
- 10 A. Yes.
- 11 Q. And so, that would be two to two on that one, correct?
- 12 A. I guess so.
- 13 Q. Now, Mr. Trettel you we went through this criteria on the  
14 ratings and your testimony previously was that your rating  
15 matrix was developed based on this criteria, do you recall  
16 that?
- 17 A. Based on the which criteria?
- 18 Q. The criteria set forth in 18 C.F.R 2.69 and in the Army  
19 Corps of Engineer's methodology for siting?
- 20 A. I don't believe I said that we developed our criteria based  
21 solely on those.
- 22 Q. Isn't this a criteria that the federal agencies use, FERC  
23 and the Army Corps, uses for choosing routes?
- 24 A. Which ones are you referencing, the ones that we've just

1           gone through?

2    Q.    Yes.

3    A.    These were some of them, yes.

4    Q.    These are the primary criteria, correct?

5                   MR. KRUSE:  He's already answered that question  
6 and acknowledged that they were very important.

7    Q.    Well Mr. Trettel, yesterday when you testified you  
8 testified that in making routing decision you attempted to  
9 stay within existing corridors because that was of great  
10 importance, is that correct?

11   A.    That's correct.

12   Q.    And in fact, if there is probably one thing that is most  
13 important, it is staying within existing corridors,  
14 correct?

15   A.    I would say yes.

16   Q.    Now, how does your rating matrix take that into account,  
17 that staying within existing corridors is the most  
18 important thing?  It's only rated as a single value isn't  
19 it?

20   A.    That's correct.

21   Q.    And in fact, no greater weight is given to that than  
22 proximity to churches or perennial stream crossings, or any  
23 of those other criteria, correct?

24   A.    Correct.

- 1 Q. And in fact, under the engineering constraints portion of  
2 your matrix, a number of the engineering constraints would  
3 be more likely to be associated with staying within  
4 existing corridors, such as a pipeline cross over, correct?
- 5 A. Say that again.
- 6 Q. Well, the engineering constraints portion of your matrix,  
7 are you familiar with that?
- 8 A. Yes.
- 9 Q. And it rates certain things such as pipeline cross-overs  
10 and assigns points to that.
- 11 A. Correct.
- 12 Q. And if one were in an existing corridor, one would be more  
13 likely to encounter pipeline cross-overs than if one were  
14 outside of an existing corridor, correct?
- 15 A. No, not necessarily.
- 16 Q. Well, if you construct your pipeline in the Portland  
17 Pipeline corridor, aren't you more likely to encounter  
18 pipeline cross-overs than if you go through a virgin area  
19 of the forest to cross the river?
- 20 A. That's correct, yes.
- 21 Q. So, in fact, some of the engineering constraints that are  
22 identified in your rating matrix would be more closely  
23 associated with doing work in an existing corridor than  
24 doing work outside of the corridor, correct?

1 A. I guess the point about pipeline cross-overs is correct,  
2 yes.

3 Q. So, in fact, your matrix might actually penalize people in  
4 terms of the rating system for being within an existing  
5 corridor, because it may assign more points to the type of  
6 work that would be associated to being within that  
7 corridor, correct.

8 MR. KRUSE: Object to the question and I don't  
9 understand "penalizing people".

10 Q. Penalizing route choices, making the route choice have a  
11 higher number because it would be more engineering  
12 constraints associated with being within an existing  
13 corridor, that could happen?

14 A. I can't answer that.

15 MS. LUDTKE: I'm basically finished with the  
16 Shelburne. Justin has some questions on the ACP and some of the  
17 third party inspection. We can go to that, if you want.

18 CHAIRMAN VARNEY: Do you want to break for lunch?  
19 You do? I can't believe it. Okay, I guess why don't we  
20 reconvene and continue with this witness as 1:00 p.m..

21 (Recess)

22 CHAIRMAN VARNEY: Before we continue we would  
23 like to provide an opportunity for any members of the public,  
24 especially those who have traveled long distances to offer up

1 comments and I would first like to acknowledge Rep. Lawrence  
2 Guay.

3 REP. GUAY: Mr. Chairman, members of the  
4 Committee, my name is Rep. Lawrence Guay and the Town of  
5 Shelburne is one of my towns that I represent in the New  
6 Hampshire House of Representatives. I am the Assistant Majority  
7 Whip. I am the Vice Chairman of Science and Technology  
8 Committee and Energy and I am Chairman of the New  
9 Hampshire/Canadian Trade Council. I strongly support the  
10 construction by PNGTS. It will provide vast economic benefits,  
11 substantially increase the local property tax base, help Wausau  
12 Papers and Groveton Paper Board, Inc, and bring a North American  
13 clean source of energy to New Hampshire.

14 I am here today because I do not want you to get wrong  
15 the wrong impression about Shelburne. You should know that not  
16 everybody in Shelburne feels the same. I have gathered a set of  
17 newspaper clippings on the issue. Look at the headlines --  
18 "Shelburne residents split over route of the proposed natural  
19 gas pipeline". The fact is that the Town did not talk to the  
20 landowners who object to what Shelburne wants you to do. I'm  
21 here to make sure you understand that not all landowners in  
22 Shelburne agree with the testimony of the town officials.

23 I urge the pipeline companies and Shelburne to sit  
24 down and go over the new plan they have, the mitigation plan,

1 and make it work. We need the project to be built. This is the  
2 extent of the testimony as written.

3 I would like to state also, Mr. Chairman, that on  
4 Science, Technology and Energy, some of our task is to overlook  
5 the air pollution and also the restructuring of the utilities  
6 and also the municipalization bill that I had sponsored and  
7 Governor Shaheen had sponsored on her side, actually is being  
8 signed into law, and we separate some of the gas company from  
9 municipalization to be able to make it better for them.

10 I'm looking at the big picture of what the regulations  
11 of electric utility will do or what gas company can participate  
12 in the Clean Air Act and because of the pulp and paper  
13 companies, of which I spent forty-five years in there as an  
14 employee and understand, and actually everything has to come in  
15 on target. By November 1, 1998, it is expected that the gas  
16 will flow from Montreal to Portland, Maine and Northern Maine  
17 and actually I would appreciate that if you have some concerns  
18 that we settle these concerns and not delay the pipeline to be  
19 built and the gas to flow from these directions. The Senate was  
20 very, very opposed in the last sessions about special contracts  
21 of pulp and paper with the utilities and actually these special  
22 contracts won't last forever. I think Wausau, James River and  
23 some of these people do have special contracts and utilities.  
24 There in turn with the natural gas line I envision, I'm not

1 talking for them, but we could have within two years 50  
2 megawatts of power that could produce for their pulp and paper  
3 companies from the natural gas pipeline. If some of these  
4 companies are looking forward to having the natural gas flow,  
5 they have to prepare in advance and actually, the target is  
6 November 1, 1998. So, we have to look at all these things,  
7 because we don't want, on our Committee, in looking at the  
8 future, we don't want any more special contracts, as much as  
9 possible, to be signed by these utilities that are producing  
10 electricity and actually the people that are manufacturing like  
11 the pulp and paper. So, these are my reasons; I'm looking at  
12 the jobs that are going to be created by the pipeline, and I'm  
13 looking at the clean air, and I'm looking at the whole picture,  
14 rather than just to have a segment or two to look at and say is  
15 this route going to be better than the other one. I know that  
16 the route that is in existence now, actually on the other side  
17 of the river, is the best.

18 I, from Gorham, would appreciate, you know, if we  
19 could have the pipelines where they want to go, where we want to  
20 build an emergency road to pass the pipeline there it would help  
21 us, but if anything of that sort is going to delay the pipeline,  
22 I don't think we -- we can't afford it, because I represent Coos  
23 County as well, and the State as well. And actually Coos  
24 County, we passed a resolution that we want to go forward as

1 fast as possible and have this on target.

2 I speak for all of that and I thank you very much for  
3 hearing me, since I have some other things to do.

4 CHAIRMAN VARNEY: Thank you very much. We  
5 greatly appreciate your coming down and sharing that with us  
6 today.

7 REP. GUAY: Yes and I appreciate it too. When  
8 you come in to my Committee, I'll let you go first.

9 CHAIRMAN VARNEY: Your Committee has always  
10 treated me well. Thank you. Any other members of the public  
11 who have traveling to do and would like to say a few words, so  
12 they can move on? Okay. I guess we're ready to continue.

13 J. ROGER TRETTEL

14 CROSS EXAMINATION - CONTINUED

15 Examination by Mr. Richardson:

16 Q. Mr. Trettel, I have some questions about the visual impact  
17 studies that have been done. You indicated earlier that  
18 you participated in the assessment of routes through  
19 Shelburne, right?

20 A. That's correct.

21 Q. And you indicated in your revised testimony that you have  
22 undertaken a thorough analysis of visual impact of the  
23 project along Hogan Road.

24 A. That's correct.

1                   MR. KRUSE: Excuse me, Mr. Chairman. I don't  
2 want to get too formalistic and I think it's fine for the  
3 purposes of the proceeding if the lawyers divide up  
4 cross-examination by subject matter. We may need to do that as  
5 well. I didn't object when it was done before, but I am a bit  
6 concerned about Mr. Richardson going back over Shelburne issues  
7 when we thought they had been covered in Ms. Ludtke's  
8 cross-examination.

9                   MS. LUDTKE: If I could address that very  
10 briefly. It was very difficult for us to divide the witnesses  
11 clearly because, of course, Mr. Trettel started testifying about  
12 some matters pertaining to Shelburne that had been part of  
13 Mr. Morgan's testimony and I think that that's one reason why  
14 you're finding both of us addressing questions to the same  
15 witness, but I would also like to remind Attorney Kruse that we  
16 spent about two and a half hours listening to direct examination  
17 on prefile testimony this morning and we certainly don't intend  
18 to drag the process out any longer than is necessary through  
19 this examination and I think you'll find Attorney Richardson's  
20 examination is direct and to the point.

21                   CHAIRMAN VARNEY: Thank you.

22 Q. You indicated in your prefile testimony that you had  
23 undertaken a thorough visual analysis of the project along  
24 Hogan Road?

1 A. That's correct.

2 Q. And you found that the resulting visual impact to the  
3 proposed route would be minimal?

4 A. That's correct.

5 Q. And you've also prepared, as we indicated earlier,  
6 diversion assessments for the FERC staff.

7 A. That's correct.

8 Q. And that was the assessment on February 3rd or in response  
9 to the February 3rd data request #20?

10 A. Analyzing the Shelburne route, yes.

11 Q. And you indicated back in February of this year that the  
12 relatively minor negative impacts associated with PNGTS's  
13 proposed route can be effectively litigated.

14 MR. KRUSE: Excuse me. Can we have the report in  
15 front him, if you are going to read from it?

16 MR. RICHARDSON: I don't have the report here.  
17 I'm just quoting from it. It's on --

18 MR. KRUSE: This is question 20, responses to  
19 FERC staff data request of February 3, 1997.

20 Q. I refer to the conclusion, the concluding paragraph, you  
21 indicated that the relatively minor negative impacts with  
22 the PNGTS proposal can be effectively mitigated, is that  
23 correct?

24 A. That's correct.

1 Q. And that was based on a thorough analysis of the visual  
2 impacts?

3 A. That's correct.

4 Q. Did you provide that analysis of the visual impacts to the  
5 FERC at that time, in February?

6 A. Nothing more than our discussion in this data response.

7 Q. And that data response was provided to the State as well,  
8 is that correct?

9 A. I believe it was -- I'm not sure. I believe it was.

10 Q. Let me correct myself. Did you provide a thorough analysis  
11 of the visual impact to the State in February when you  
12 provided that response?

13 A. Not an additional written.

14 Q. And did you provide one to the Town of Shelburne?

15 A. No.

16 Q. Now, in February --

17 CHAIRMAN VARNEY: Was that a FERC data request  
18 that you're referring to?

19 MR. RICHARDSON: That's correct.

20 CHAIRMAN VARNEY: Okay.

21 MR. RICHARDSON: Data request 20 on February 3rd.

22 CHAIRMAN VARNEY: Not an SEC, a FERC.

23 Q. In the SEC proceedings there was a data request on February  
24 28th. I'm sorry February 21st, data request 28. I have I

- 1 copy here. I'm sorry I don't see it right here in front of  
2 me. The data request asks you to describe the visual and  
3 aesthetic impacts on the Town of Shelburne, didn't it?
- 4 A. I'd have to see the data request. Yes, it does.
- 5 Q. Could you read the data request to me?
- 6 A. The question says, "Describe the visual and aesthetic  
7 impact on the creation of new right-of-way in the towns of  
8 Gorham and Shelburne, New Hampshire. Specifically address  
9 the visibility along Route 2 in Shelburne, a permanently  
10 cleared right-of-way and additional temporary work space  
11 clearing."
- 12 Q. And that response was also a response to a Committee  
13 Counsel data request, was it not?
- 14 A. I'm not sure.
- 15 Q. Now, in your response you indicated that the visual impacts  
16 on page 25 would range from negligible to minor?
- 17 A. That's correct.
- 18 Q. And you also concluded that the right-of-way would be  
19 virtually imperceptible from Route 2?
- 20 A. That's correct.
- 21 Q. And this conclusion was based on the fact that the new  
22 right-of-way would run horizontally along a gentle slope,  
23 is that right?
- 24 A. That's correct.

- 1 Q. Now, did you base your conclusion on a thorough analysis of  
2 visual impact at that point?
- 3 A. That's correct.
- 4 Q. Did you provide that analysis in response to that data  
5 request?
- 6 A. We did not provide field notes or anything other than this  
7 response, but we did perform a reconnaissance survey of the  
8 area, evaluating the potential visual impact from various  
9 vantage points along Route 2.
- 10 Q. So, did you provide that survey?
- 11 A. Other than in the response to this answer, no, or in  
12 response to this question, sorry.
- 13 Q. Could I see your response, please. Now, Mr. Trettel, your  
14 response is essentially five paragraphs long, is that  
15 correct?
- 16 A. Five paragraphs, yes.
- 17 Q. Is that your understanding of a thorough response to that  
18 issue?
- 19 A. It was adequately responded to.
- 20 Q. Now, you've prepared today a subsequent response, the one  
21 that you've shown behind to the Committee and it's also in  
22 your mitigation plan.
- 23 A. That's correct.
- 24 Q. Now, why did you do that?

1 A. In response to concerns of the Town of Shelburne and in  
2 response to the FERC DEIS, which requested us to recommend  
3 to FERC the Hogan Road variation.

4 Q. Now --

5 MR. KRUSE: Excuse me. I'm having a hard time  
6 hearing, if you could get closer to the mic, like the others as  
7 well. Could you repeat your answer there, please.

8 A. We prepared the visual mitigation plan in response to  
9 concerns expressed by the Town of Shelburne, as well as by  
10 the FERC in their draft DEIS, which requested that we look  
11 at the Hogan Road variation.

12 Q. Now, you also indicated earlier that that was in response  
13 to the Town of Shelburne's request, that you prepared the  
14 visual impact mitigation proposal?

15 A. It was in the response to the Town of Shelburne's concerns  
16 about visual impact, potential visual impacts.

17 Q. Now, you didn't -- so you waited until May 9. I mean,  
18 excuse me, you waited until recently, until June, to  
19 prepare this request, is that right?

20 A. We waited -- we had just prepared this report in the last  
21 couple of weeks we had several meetings with Shelburne over  
22 the last few months with the goal of coming to some  
23 consensus on a route and any mitigation to our proposal we  
24 were never able to get beyond the whole routing issue to be

1           able to present any kind of visual mitigation plan.

2    Q.    But you just indicated to me that you knew back in February  
3           that the effects could be effectively mitigated, is that  
4           right?

5    A.    We knew there was potential to work something out, yes.

6    Q.    And you also indicated in your February response that you  
7           had undertaken a thorough analysis of the visual impacts?

8    A.    That's correct.

9    Q.    So, you had undertaken a thorough analysis and you knew the  
10           effects could be mitigated and you also knew that there  
11           were data requests from the FERC in February and from the  
12           State of New Hampshire in February, but you didn't provide  
13           a thorough analysis at that time?

14   A.    We provided a response to the data request.

15   Q.    Now, your -- you indicated just a few minutes ago that the  
16           conclusions that the impact from Route 2 would be virtually  
17           imperceptible, because it would run along a gentle slope  
18           along Hogan Road.

19   A.    That's correct.

20   Q.    Now, isn't it true that the slopes along Hogan Road vary  
21           somewhat significantly?

22   A.    There are some variations in the topography, yes.

23   Q.    Did you address that in your analysis that you provided to  
24           the State in March?

1 A. That was part of the overall assessment and our conclusion  
2 that it would be largely imperceptible.

3 Q. Did you specifically address the variations in slopes and  
4 what a differing effect that would have?

5 A. We did not provide specific locations of where there is a  
6 slope. We know we looked at the big picture.

7 Q. Now, isn't it true that in May of 1996, in your data  
8 request response, you indicated that the slopes on the  
9 north side of the road presented -- north side of the river  
10 presented a constraint of five because of steep rocky side  
11 hills?

12 A. That's correct. But can I clarify? That route that was  
13 identified in the May '96 filing was considerably steeper on  
14 the slope than our current proposal.

15 Q. Which was filed -- which was completed in the last week?

16 A. No. No. No which was filed in November of '96.

17 Q. Excuse me. This is response 28 to your March 28th data  
18 request response and you indicated --

19 MR. KRUSE: Excuse me. Justin, could you show  
20 him the request and the response.

21 MR. RICHARDSON: I could have about ten minutes  
22 ago.

23 MR. KRUSE: Is it May 9th? Because I may have an  
24 extra copy.

1 MR. RICHARDSON: No, that's all right. I'll move  
2 on.

3 MS. LUDTKE: No. No. It's November 28th, right.

4 MR. RICHARDSON: Yes. It's response 28, March  
5 21st. Excuse me. Excuse me. No, I'm sorry. I'm looking at  
6 Table 1.5 in May of '96.

7 Q. You'd agree that there are steep side slopes there along  
8 Hogan Road?

9 A. Yes.

10 Q. And in fact, there are steep side slopes in the area across  
11 Reflection Pond, is that right?

12 A. That's correct.

13 Q. Now, your original -- or your application generally  
14 describes a 75 foot wide right-of-way?

15 A. That's correct.

16 Q. And that is what is shown on your alignment sheets, with  
17 the addition of temporary work space areas?

18 A. That's right.

19 Q. And now, in certain circumstances, however, you will exceed  
20 those work space areas, is that right?

21 A. Not in this area, but there are instances where we request  
22 additional temporary work space.

23 Q. Now, isn't it true that some of those areas include  
24 sections of the route in which blasting will occur?

- 1 A. That's correct.
- 2 Q. And in those instances you request an additional 15 feet of  
3 work space?
- 4 A. That's correct.
- 5 Q. Now, isn't there a significant likelihood that they'll be  
6 blasting along that section of Reflection Pond?
- 7 A. There is potential for blasting. However, we have not  
8 requested in our original application or in -- or with our  
9 proposed mitigation plan to have extra work space provided.
- 10 Q. I would like to show you a section of your Environmental  
11 Construction Plan, if I may. This is the April 30, 1997  
12 revised ECP and I believe it's section 4.6. This section  
13 is entitled "field adjusted temporary work space," is that  
14 right?
- 15 A. That's correct.
- 16 Q. Now, in that section the Company requests that the approval  
17 from both the FERC and this Committee to exceed the work  
18 space areas identified on its plan, is that right?
- 19 A. In very small or unusual circumstances, if there is an  
20 emergency or a difficult construction constraint that comes  
21 up during construction, we have requested for the FERC to  
22 be able to exceed our proposed work space, yes.
- 23 Q. I'd like you to now -- that section, that relates to a part  
24 of the FERC Upland Erosion Control Plan, is that right?

- 1 A. That's right.
- 2 Q. And that plan recommends that exceedances of the amounts  
3 shown in the plans will only occur in limited areas, is  
4 that right.
- 5 A. That's right.
- 6 Q. And PNGTS proposes not to follow that limited area  
7 application, is that right?
- 8 A. No, that's not right.
- 9 Q. That's not right. Could you read to me the first sentence  
10 on the bottom paragraph on page 33 of your Revised  
11 Environmental Construction Plan.
- 12 A. "The Company respectfully requests a broader application of  
13 sections B, page 2, of the plan referenced herein to  
14 include all certificated areas of the project and the width  
15 of greater than a hundred -- and a width of greater than  
16 100 feet."
- 17 Q. Now, isn't it true that that section is in fact a request  
18 to exceed the maximum limit of 100 feet for construction  
19 work space?
- 20 A. In selected locations, yes.
- 21 Q. Now, didn't you just read to me that that request was filed  
22 for all certificated areas of the project?
- 23 A. The request was to be able to apply that to wherever it's  
24 needed throughout the project, yes.

1 Q. And that area could include areas, say for example, on  
2 Hogan Road?

3 A. It could but it is unlikely.

4 Q. Now, but you just indicated to me that you will require 15  
5 feet of additional temporary work space in most cases for  
6 blasting, is that right?

7 A. In selected areas, not in most circumstances.

8 Q. There is a significant possibility that blasting will occur  
9 along that section opposite Reflection Pond?

10 A. There is potential for some blasting, yes.

11 Q. And in fact, PNGTS has identified the areas where blasting  
12 will occur, hasn't it?

13 A. Yes.

14 Q. And that is in the Construction Conditions Plan?

15 A. That is correct.

16 Q. And that plan generally outlines the amount of trench that  
17 must be excavated through blasting, is that right?

18 A. Yes.

19 Q. Now, I'd like to show you a copy of that plan.

20 MR. KRUSE: Just for the record, are you looking  
21 for the Draft Construction Conditions Report of June '97, that's  
22 Exhibit 31?

23 MR. RICHARDSON: Yes, thank you.

24 Q. Now, those areas are identified by mile posts, is that

- 1 right?
- 2 A. I'm not intimately familiar with how the data is presented  
3 there. Fred Evans may be better to respond to that.
- 4 Q. Now, you're familiar with the mile post locations along the  
5 Shelburne Route and the Hogan Road area?
- 6 A. Yes.
- 7 Q. Okay. I'd like to show you the mile post locations  
8 beginning with approximately 69, it's approximately mile  
9 post 69. Is that the section where the Hogan Road  
10 diversion begins, that section of the revision?
- 11 A. Yes, approximately a little bit past 69, yes.
- 12 Q. Now, there's essentially three primary categories A, B and  
13 C, is that right?
- 14 A. That's right.
- 15 Q. And section C corresponds to the amount of blasting that --  
16 or the amount of the trench that must be excavated through  
17 blasting?
- 18 A. That's correct.
- 19 Q. Okay. Now, along that section of Hogan Road, shall we say,  
20 opposite Reflection Pond beginning around mile post 71,  
21 isn't it true that there are sections of the right-of-way  
22 that will require up to 70% of the trench to be excavated  
23 through blasting techniques?
- 24 A. One location, between 71.2 and 71.3 will require, the rest

1 is 0 to 20.

2 MR. KRUSE: Excuse me. You have got to use the  
3 mic.

4 A. There's one location between mile post 71.2 and 71.3 tenths  
5 of a mile where 70%, up to 70%, may require blasting the  
6 remainder is in the range 0 to 20%.

7 Q. And 70% is fairly high, isn't it?

8 A. Yes.

9 Q. In fact, that's unusual for it to be that high, isn't it,  
10 compared to the rest of the right-of-way?

11 A. I can't answer that question.

12 Q. So, you're not familiar enough with the soil conditions  
13 along the right-of-way to say whether excavating 70% of the  
14 right-of-way -- 70% of the trench it unusual?

15 A. I can't answer that question.

16 Q. So, do you expect up to 70% to occur throughout the  
17 right-of-way?

18 A. No. I would prefer to defer to Brent Evans on questions  
19 about the geotech report.

20 Q. So, you don't have enough expertise, is what you're telling  
21 me, in this area to tell me whether the 70% is an unusual  
22 circumstances?

23 A. I don't have full -- I haven't memorized all the data that  
24 is in the report, so I can't tell you.

- 1 Q. Now, didn't you just tell me a few minutes ago that the  
2 amount of expansion of the amount of certificated areas, in  
3 other words, the amount that is shown on the 75 feet on  
4 your alignment sheets would only occur under unusual  
5 circumstances.
- 6 A. That's correct.
- 7 Q. Now you're telling me that you don't know whether 70% of  
8 the trench excavation along this section of the route is an  
9 unusual circumstance?
- 10 A. Where we would request additional work space for storage of  
11 rock is not necessarily directly corollated to how much  
12 trench blasting would be required. It's related to how  
13 much surface rock there is. It's related to blasting.  
14 There is a number of variables that go into deciding when  
15 we would need extra work space. That specific issue isn't  
16 the only determining factor.
- 17 Q. So, if for example, in that section of the route there were  
18 all surface rocks, significant amounts of surface rocks,  
19 that would also increase the need for temporary work space  
20 areas?
- 21 A. Not in that location, because we would be proposing to  
22 remove any additional or extra surface rock that would  
23 prevent us from constructing with our proposed right-of  
24 way.

- 1 Q. Okay. Let me move on for a minute. Another condition that  
2 requires additional temporary work spaces is steep side  
3 slopes, is that right?
- 4 A. Sometimes, yes.
- 5 Q. And in those circumstances the amount of additional  
6 temporary work space -- not additional temporary work  
7 space, the amount of extra work space is approximately 25  
8 feet beyond that which was identified on the alignment  
9 sheets?
- 10 A. It can be, yes.
- 11 Q. And a question I asked you earlier, you indicated that the  
12 May 1996 analysis of this section rated this area as having  
13 5 for steep side slopes and rocky terrain.
- 14 A. That's correct and I tried to clarify that that was looking  
15 at a route that was farther up on the slope.
- 16 Q. Now, are there steep side slopes and rocky terrain in this  
17 section of the pipeline right-of-way, that's the area  
18 immediately adjacent to Reflection Pond which we visited on  
19 the Site Evaluation Committee's field trip?
- 20 A. Farther up the slope, yes. There's a couple of small areas  
21 directly adjacent to Hogan Road where there is a steep,  
22 relatively steep, side slope, which is where we proposed  
23 limiting our work space.
- 24 Q. And that area is shown here at approximately what mile

1 post?

2 A. Between 71.18 and 71.24 and another location at 71.31 and  
3 71.36 and there's another location between 71.5 and 71.6,  
4 all of those areas we're proposing, what we call cross  
5 section 1, which is -- (gesture toward map).

6 Q. So, it's generally a section of the route between 71.1 and  
7 about 71.3?

8 MR. KRUSE: Excuse me. Roger, will you pick the  
9 mic up in your hand?

10 A. A portion of that section has steep side slopes. There's  
11 also some areas where it is relatively level and there's  
12 also an area where it's actually below the grade of the  
13 terrain, adjacent to the Androscoggin River or adjacent to  
14 Reflection Pond.

15 Q. So, in this situation now, we have an area between 71 point  
16 -- I'm sorry, the area you've identified where there's  
17 steep side slopes and wasn't that also the area that we  
18 identified just a minute ago that had 70% of the trench  
19 being excavated by blasting?

20 A. A portion of that area, yes.

21 Q. And is that your testimony today that that is not an  
22 unusual circumstance that would require expanding  
23 additional temporary work space area?

24 A. Yes. That is not an area where we would require expanded

1 temporary work space area.

2 MR. RICHARDSON: No further questions.

3 Examination by Mr. Iacopino:

4 Q. I would like to just ask him a question on these waiver  
5 requests. The North Country Council, in their prefile  
6 testimony objected to that request. Have you gone over  
7 there reasoning?

8 A. Yes, I've read that.

9 Q. And do you have any comments on that?

10 A. We stand by our request for a waiver for that.

11 Q. You have no response to their concern that the request as  
12 requested gives you unlimited approval to expand the work  
13 area without limitation?

14 A. Yeah, I think it may require a little bit of revising to  
15 clarify what we're specifically asking for is really an  
16 unusual circumstance; where there's an unforeseen problem  
17 in the field, where we would need quick approval to use a  
18 little bit more space in order to construct the project.

19 Q. All right. Under those circumstances would the Company  
20 have any objection to a field inspector, assuming one is  
21 appointed to supervise the construction in any of these  
22 spreads, to that supervisor being authorized to limit the  
23 amount of work space that is needed?

24 MR. KRUSE: Can Mr. Trettel consult with some of

1 the other panelists on that question?

2 MR. IACOPINO: Sure. Can you supply the answer  
3 later? I would suggest though that there have been various  
4 requests in the pretrial testimony to appoint inspectors along  
5 the way, environmental inspectors included. And my question is,  
6 if that's going to happen would you have any objection to having  
7 that person have the authority to limit the amount of work space  
8 that is actually needed? And you can consult and supply that  
9 answer later if you would like.

10 MR. KRUSE: Thank you.

11 MR. CANNATA: Mr. Iacopino, can we have that as a  
12 record request?

13 MR. IACOPINO: Yes, I make that a record request.

14 CHAIRMAN VARNEY: Town of Shelburne, would you  
15 like to ask questions?

16 Examination by Mr. Judge:

17 Q. The Town of Shelburne, at the present we have 8.7 miles --

18 CHAIRMAN VARNEY: Could you try to use the  
19 microphone. I'm sorry.

20 Q. There is the present 8.7 miles of existing energy  
21 right-of-way. We have a pipeline running through all of it  
22 and there are eleven effected residences along that 8.7  
23 miles. I wonder if you could tell me how many new  
24 residences would be effected by the revision proposed

1 through Shelburne?

2 A. You're talking about our proposed mitigation plan?

3 Q. I'm talking about the revision that would go from the  
4 Gorham state line to the Maine state line.

5 A. I'd have to consult with Chris Wilber on that. I'm not  
6 sure about all the landowners.

7 Q. I made a quick estimate off the sheets we have available,  
8 it would be 24. So, we would end up with going from eleven  
9 effected residences to approximately 36 and I just wanted  
10 to bring out that the majority of those would be in the  
11 North Road.

12 MR. KRUSE: Mr. Chairman, with respect to  
13 Mr. Judge, I think his cross-examination should be broad and  
14 complete but I think his testimony, and he may have made a very  
15 accurate representation, I don't know, but I think his testimony  
16 should be reserved for that part of the proceeding.

17 MR. JUDGE: I apologize.

18 Q. Have any mitigation considerations been given to the  
19 properties that are effected along the North Road?

20 A. Other than the specific agreements that are made with  
21 landowners through our land agents, I'm not aware of any.  
22 In our proposed litigation plan we are proposing to plant  
23 trees along -- trees and shrubs along the road where the  
24 pipeline would cross the road, so as to screen any corridor

1 effect from the road.

2 Q. In the proposed mitigation some of the pipeline proposed  
3 right-of-way along the Hogan Road moves from your original  
4 revision right-of-way and some of it remains on your  
5 original proposed right-of-way?

6 A. That's correct.

7 Q. And have you done any enhancement to show those portions  
8 that remain on your originally proposed revised revision  
9 from the standpoint of visibility from Route 2 since the  
10 clear cutting has been done, which gives us an opportunity  
11 to see it as it is?

12 A. One of the locations that we would be staying on our  
13 original route is in an area where -- of active clear  
14 cutting and our proposed route would be at the lower end of  
15 the active clear cutting. The upper portion of the clear  
16 cutting is visible from Route 2. Our pipeline would be  
17 below that visible area.

18 CHAIRMAN VARNEY: I believe photographs were  
19 provided yesterday on that, weren't they, to show that area?

20 THE WITNESS: Yes, they were.

21 MS. PATTERSON: Were they submitted?

22 MR. IACOPINO: There was a question as to whether  
23 they were submitted as exhibits?

24 MR. KRUSE: Our intention is that they are, but

1 they have not been marked.

2 CHAIRMAN VARNEY: We should try to do that later  
3 today.

4 MR. KRUSE: I would suggest they be part of  
5 Exhibit 21-A and we could number them sequentially.

6 Q. I guess I had a question as to -- again going back to my  
7 previous question, have photographs been taken from Route 2  
8 to show the effects of the clear cutting, part of which the  
9 proposed pipeline would run in?

10 A. Yes, they have.

11 MR. JUDGE: You have. I guess that would be  
12 all -- I could see where we'll be making some closing statements  
13 and include some of our concerns.

14 Examination by Mr. Carlisle:

15 Q. You made reference to, I believe it was in February, of  
16 doing a rather extensive study for any scenic impact of  
17 Hogan Road the route might make.

18 A. We did a visual evaluation of the area.

19 Q. Could you just give us a brief overview of what an  
20 intensive study like that is, what you did? Did you use  
21 computer modeling or --

22 A. We did not use computer modeling at that point. It was  
23 primarily ground reconnaissance, essentially touring the  
24 area looking at -- from trying to identify locations where

- 1 the pipeline may be visible.
- 2 Q. But the pipeline right-of-way was not cut at that time?
- 3 A. That's correct.
- 4 Q. Yesterday you showed a number of photos purporting to  
5 depict what the Hogan Road Route would look like after  
6 construction?
- 7 A. That's correct.
- 8 Q. You mentioned that at least one of your photos was  
9 retouched.
- 10 A. Yes, that's correct.
- 11 Q. Do you want to emphasize your point?
- 12 A. Can you repeat your question?
- 13 Q. Yeah. You mentioned that one of your photos was retouched.  
14 To emphasize the point, I think you put a right-of-way on  
15 the photo or something.
- 16 A. Yes. It was to emphasize what the proposed -- what our  
17 proposal would appear like after construction.
- 18 Q. Is the panorama photo behind you retouched at all?
- 19 A. No. No, it isn't.
- 20 Q. Has it been retouched to depict what it would look like  
21 after the pipeline installation is in?
- 22 A. No, it is not.
- 23 Q. So, that's really a before photo and not an after photo.
- 24 A. That's a photograph of the present condition, yes.

1 MR. CARLISLE: No more questions.

2 CHAIRMAN VARNEY: Thank you. Any other questions  
3 from Shelburne? Members of the Committee? Bruce.

4 Examination by Mr. Ellsworth.

5 Q. I refer you to Exhibit 21-a, the map behind you. As we  
6 look at what has been proposed as the revised route, the  
7 one which includes the FERC recommended changes, do you  
8 support the construction of the project on that route?

9 A. Yes, I do.

10 Q. You gave us extensive testimony earlier today about the  
11 numerical grading of the other alternatives. Did you make  
12 a numerical evaluation of the route with the proposed FERC  
13 changes?

14 A. No, we have not.

15 Q. Then what leads you to the conclusion that that's the  
16 preferred route?

17 A. We had come to the conclusion that our original proposal  
18 would be the preferred route. By implementing the proposed  
19 mitigation plan we feel that that makes our proposed route  
20 even stronger and it addresses -- it goes above and beyond  
21 what FERC had requested we do.

22 Q. In connection with the FERC recommendations, do you know  
23 the extent to which FERC relied on your data for their  
24 evaluations?

- 1 A. I believe that they used our data to some extent, but they  
2 did perform their own analyses and they do field  
3 reconnaissance and helicopter fly-overs and collect their  
4 own data. Their process -- they don't just rely upon the  
5 applicant's data. They confirm and corroborate before they  
6 make a decision.
- 7 Q. Where would we find the evaluations that they made of the  
8 environmental impact of the various route alternatives?
- 9 A. In the draft environmental impact statement they present a  
10 matrix of parameters they evaluated.
- 11 Q. Would we find in there any reference to whether or not they  
12 used your data and the extent to which they relied on your  
13 data?
- 14 A. I don't believe there is a specific reference to that.
- 15 Q. Do you remember if there was any reference to it?
- 16 A. I can't answer that.
- 17 Q. Do you have an opinion as to how the numerical ratings of  
18 the revised group would come out if you made such a  
19 numerical evaluation?
- 20 A. I can't predict exactly what they would come out to, but  
21 they would improve; they would make our proposed route  
22 appear better.
- 23 Q. There was some discussion this morning that in one of your  
24 earlier evaluations that there was a two fold difference

1           between, or a 100% difference between one route and the  
2           other and then if I remember, your last evaluation it was a  
3           wash between the one or two numerical number differences.  
4           Would you give us your perspective on how the numbers would  
5           change in your new revised plan?

6    A.    I couldn't give you an exact number.  I think maybe change  
7           in spread by 10 to 20%.  I really -- it's difficult to  
8           project.

9                         MR. ELLSWORTH:  Thanks.  That's all at this time.

10                        MR. IACOPINO:  Mr. Chairman, just for  
11           informational purposes, on the DEIS, page 6.9, they do make that  
12           comparison in a chart form and it's interesting that they end up  
13           with a 0.08 for the proposed route and for the Hogan Road  
14           variation 0.9.  That's a one point difference.  I'm being  
15           informed that's a quantitative data rather than rankings.  
16           That's interesting.

17                        MR. SCHMIDT:  I have a number of questions in  
18           several different areas, not all of which, believe it or not,  
19           have anything to do with Shelburne.

20           Examination by Mr. Schmidt:

21    Q.    The first one is a terminology question and it has to do  
22           with the term "mitigation".  The word has been used quite  
23           often in testimony and elsewhere in the documents and I'd  
24           like to be sure I understand what the meaning of that term

1 is. In particular, frequently when we use the term  
2 "mitigation" in reference to wetlands, what we're talking  
3 about is replacing lost values by creation of additional  
4 or -- additional new wetlands or preservation of other  
5 wetlands or in some way compensating for the loss of  
6 wetland values and I'd like to know whether that is part of  
7 your meaning of mitigation when you use that term.

8 A. I think we use the definition of "mitigation" which is  
9 essentially to minimize the effect of a particular action  
10 with regard to wetlands, mitigation can consist of  
11 restoration, enhancement replacement creation. I mean  
12 there is a whole hierarchy of mitigation. In general, when  
13 we talk about our proposed project, we believe that we will  
14 have a short term minor impact, the impact which can be  
15 mitigated by implementing the measures on our ECP,  
16 restoring the wetlands, restoring grades, restoring the  
17 drainage patterns, and allowing them to revegetate, with  
18 the exception of the cleared or the maintained corridor of  
19 the pipeline.

20 Q. Okay. Are there any areas along the route where you are  
21 actually replacing wetland values or will all permanent  
22 impacts be, in fact permanent and unreplaced or  
23 uncompensated?

24 A. Well, we don't -- We will not have any permanent loss of

1 wetlands. We will have temporary impact and we will have  
2 some permanent to conversion of forest cover to emergent  
3 scrub cover.

4 Q. That actually leads me right into my next question. We  
5 received a copy of the public notice of the Army Corps of  
6 Engineers 404 Permitting Action and on page 2 of that  
7 public notice it reads as follows, and I would like your  
8 comment on this. "However some permanent wetlands impacts  
9 may occur in New Hampshire and Maine as a result of  
10 relocation of wind row rock. The applicant proposes  
11 mitigation for these impacts." Could you explain, first of  
12 all, where those impacts are occurring, these impacts of  
13 relocation of wind row rock and what's meant by this phrase  
14 "the applicant proposes mitigation for those impacts"?

15 A. What the Corps is referring to there, there are several  
16 areas where our proposed pipeline is parallel to the  
17 existing Portland Pipeline, where there is an existing wind  
18 row of rock, a pile of rock that was pushed I right-of-way  
19 when the previous pipelines were built. In the number of  
20 places that pile of rock is within a wetland the Corps has  
21 taken -- during our proposed construction we would push  
22 that existing pile of rock to the edge of our construction  
23 work space, to enable us to construct our pipeline. The  
24 Corps has taken the interpretation that that would

1           constitute a fill. We believe that the area that that rock  
2           is presently occupying, when you move the rock you would  
3           expose wetland. So, there would be essentially no net loss  
4           of wetland area. Essentially it would be a relocation of  
5           rock from one area in the wetland to another area in the  
6           wetland and the Corps is currently taking the position that  
7           may be considered a permanent impact. We intend to work  
8           with them to try to hammer that out. As far as specific  
9           locations, the majority of that occurs in Maine. There is  
10          a limited extent where we parallel the existing Portland  
11          Pipeline in New Hampshire.

12        Q.    And are those areas in New Hampshire shown on the alignment  
13            sheets or where we would we go to see where those are?

14        A.    They're not specifically shown.

15        Q.    Could you provide us that information of where they are?

16        A.    Yes, we will.

17        Q.    Okay. And the second part of this, where the Corps says  
18            "the applicant proposes mitigation for these impacts," what  
19            form would that mitigation take?

20        A.    Through primary discussions with the Corps, we have  
21            basically presented that principle that the rock is in a  
22            wetland, we're essentially moving it from one area of the  
23            wetland to another. The area that was previously occupied  
24            by the rock would be exposed. Therefore there would be no

1 net loss. In addition to that, the way the existing rock  
2 wind row is now, it's a pretty irregular barrier to both  
3 the wildlife as well as the people accessing, you know,  
4 being able to get through the woods. We would propose to  
5 reconfigure that in a more natural configuration. In some  
6 areas where the Corps perceived it to be a potentially high  
7 quality area, we were considering the option of removing  
8 some of that rock.

9 Q. So, the removal would be part of the mitigation in some  
10 case?

11 A. That's correct.

12 Q. And what you've described is basically wind rowed rock from  
13 the previous construction. Is there any areas where you  
14 will be wind rowing rock from this construction?

15 A. I'm not aware of specific areas. I know there are some  
16 large boulders out there, but I can't answer that. Maybe  
17 Mike Morgan can answer that better.

18 Q. The rock that is removed when you blast for locating the  
19 pipe, what will be done with that rock?

20 A. The majority of the rock will be replaced in the ditch up  
21 to the top of the original rock horizon. In wetlands any  
22 excess rock, any excess blast rock in wetland areas, will  
23 be removed. Excess rock in upland areas will be  
24 distributed in the temporary work space.

1 Q. Okay. When you say "removed," where will it be taken to?

2 A. It will be hauled off to an approved disposal site rock  
3 quarry or rock crushing operation, something along that  
4 line.

5 Q. Okay. If I could move into another area that I had some  
6 questions on, the shoreline certificate. I believe it's  
7 Exhibit 5, in the Certificate for Shoreland Construction,  
8 it requests a variance from some of the requirements of the  
9 Shorelands Act and I wonder whether you're familiar with  
10 the requirements for what has to be done by the Department  
11 in issuing a variance? Have you looked into what is  
12 require to be found?

13 A. I have not looked into the details of what the Department  
14 has to do.

15 Q. Well, it turns out that the statute requires that the  
16 Department make findings that, and I think I'm quoting  
17 correctly from the statute, are subject to the criteria  
18 which governs the grant of a variance by a Zoning Board of  
19 Adjustment. In other words, the process of granting the  
20 variance to the shoreland requirements is the same as  
21 granting a zoning variance on a local basis and as part of  
22 that process there are five requirements that the  
23 Department has to make a finding on, five specific  
24 questions that the Department has to make findings on and I

1           wondered if I could go through those five questions and  
2           just get your input on how we should find on these or how  
3           we should go about making findings. Some of these are a  
4           little esoteric. So, pardon me if I read these things, but  
5           these are the things we have to deal with. Would denial of  
6           the variance result in an unnecessary hardship?

7    A.    Yes, it would.

8    Q.    I guess we're looking for some help. What hardship would  
9           result if these variances to the shoreland requirements  
10          were granted -- were not granted?

11   A.    That's a question, okay.

12   Q.    What hardship would result if this variance was not  
13          granted?

14   A.    It would be almost unconstructable the necessity to clear  
15          within the bumper zone of these water bodies is essential  
16          for constructing the pipeline.

17   Q.    Okay. The second question that we have to deal with is  
18          whether there will be any diminution of the value of  
19          surrounding properties as a result of granting this  
20          variance? Any comment on that?

21   A.    I'm not the best person to answer that question -- Chris  
22          Wilber.

23   Q.    We also have to find that the proposed use would not be  
24          contrary to the spirit of the ordinance and in this case

1 the ordinance being the Shoreland Protection Act. Can you  
2 comment on that?

3 A. Our impact to the buffer zone would be generally temporary  
4 just during the construction phase, with the exception of  
5 our permanent 50 foot easement, the remaining areas would  
6 be allowed to revegetate, they would be stabilized and  
7 allowed to revegetate. So, it would be consistent with the  
8 goals of protecting the resources.

9 Q. If I could, I would like to follow up on that one, because  
10 that's one that is of particular concern to me. Do you  
11 have particular measures that you'll be taking in the  
12 shoreland areas to revegetate those areas, to stabilize  
13 them differently than you would be stabilizing just the  
14 normal flat land areas of the pipeline?

15 A. Yes, we have a whole series of measures that are specified  
16 in the Environmental Construction Plan regarding the stream  
17 crossings and restoration of the adjacent banks. We'll use  
18 an approved conservation mixture for vegetation. In some  
19 instances we'll use matting or some form of biodegradable  
20 erosion control fabric. In the riparian zone we typically  
21 maintain only a 30 foot line corridor, 15 feet on either  
22 side of the tree -- or either side of the pipe will be kept  
23 clear of the large trees but shrubs and smaller trees,  
24 smaller than 15 feet, will be allowed to regrow.

1 Q. Okay. Will you make any efforts to plant those woody  
2 materials, those shrub type materials or will it simply be  
3 grass and then if something happens to grow by itself, it  
4 will grow?

5 A. We typically let natural succession take its course.

6 Q. And if there is erosion that occurs while that natural  
7 succession is occurring, will you go back and correct those  
8 erosion problems?

9 A. Yes. We're required to monitor this pipeline. As part of  
10 the construction phase we monitor at least two years post  
11 construction to ensure that wetlands are restored and  
12 revegetated, streams are restored and stable. Any erosion  
13 problems or instability that is identified during the  
14 routine monitoring will be corrected. Following the two  
15 years of post construction monitoring the maintenance, the  
16 long term maintenance operation takes over and we conduct  
17 routine maintenance of the pipeline and correct any erosion  
18 problems or instability that may be identified. It's in  
19 our best interest to have a well stabilized vegetative  
20 right-of way.

21 Q. Okay. Thank you. If I could move on to the fourth  
22 question, it requires that we find that granting the  
23 variance would benefit the public interest. Could you  
24 comment on that?

1 A. Well, we feel that the project in general benefits the  
2 public interest and in order for the project to proceed, we  
3 would have to construct in these areas, adjacent to streams  
4 and rivers.

5 Q. Thank you. And here's one -- I'm not quite sure how you're  
6 going to respond to this one, but we have to find that  
7 granting the variance would do substantial justice. Can  
8 you help us in any way on what should be found in that  
9 regard?

10 A. I cannot answer that question.

11 Q. Anybody else that I could try that one on?

12 MR. PFUNDSTEIN: Mr. Chairman, in response to  
13 Director Schmidt's question, we certainly will address this in  
14 our post hearing submission, give some help in those areas that  
15 are certainly outside of Roger's area of expertise.

16 MR. SCHMIDT: What I would suggest, there is  
17 actually a form that we have available, that we can provide to  
18 you, that identifies the information that's required in a normal  
19 variance proceeding and you can just fill out the form.

20 MR. PFUNDSTEIN: We'll be sure to get that from  
21 you. Thank you.

22 MR. CANNATA: Clarification question,  
23 Mr. Chairman. He's indicated there was going to be a post  
24 hearing filing. Are briefs in order in this proceeding, you

1 know, with the short schedule we have to make a determination  
2 and a decision, is that what was meant?

3 CHAIRMAN VARNEY: I believe so.

4 MS. PATTERSON: It certainly would be helpful to  
5 the Committee, I think, if people want to file briefs. I don't  
6 know what their intentions are.

7 MS. GEIGER: I guess I would like some  
8 clarification from Mr. Pfundstein as to what was meant by post  
9 hearing filings.

10 MR. PFUNDSTEIN: I sat here quietly all day and  
11 now I find myself into a pig hole, I guess. Actually, I welcome  
12 the question. I fully anticipate that the parties are going to  
13 have a number of issues that some brief or proposed conditions  
14 or even in some areas some legal argument will be useful,  
15 particularly in those areas where there are questions concerning  
16 the scope of the jurisdictional issues, in those areas where  
17 additional clarification of proposed conditions from the various  
18 parties may be of use to the Committee. I can think of one  
19 issue frankly that we'll be addressing as an introduction to  
20 Mr. Morgan's remarks and testimony this afternoon dealing with  
21 the issue of jurisdiction over authority to regulate the  
22 construction operation from a safety standpoint. I'm sure as we  
23 go back through our notes of the proceeding on the other issues  
24 that may be of use to the Committee to have positions clearly

1 stated as you enter the deliberative stage.

2 MR. PATCH: I think at some point we have got to  
3 talk about when that is going to come, because if we're trying  
4 to set up a time for us to talk and I think we need to talk with  
5 the court reporter about when the transcript is going to be  
6 available and, you know, so I think we ought to do it in an  
7 organized way at some point.

8 CHAIRMAN VARNEY: Right.

9 MR. PATCH: And I think we ought to talk about  
10 page limits too.

11 MR. PFUNDSTEIN: That would be great. I would  
12 welcome a limit on pages.

13 CHAIRMAN VARNEY: I would suggest that perhaps  
14 first thing in the morning we should go over those  
15 administrative items. Did you have more?

16 MR. SCHMIDT: Yes, two more areas that I want to  
17 talk a little bit about.

18 Q. (Mr. Schmidt) Your Exhibit 72 is the May 16th filing of  
19 draft environmental conditions and included in those  
20 conditions are concerns or questions about hydrostatic  
21 testing, which we feel still are unresolved, and I would be  
22 interested to know where you stand on resolving those  
23 questions that are in that May 16th filing about  
24 hydrostatic testing.

- 1 A. I'm going to have to defer to either Mike Morgan or Brent  
2 Evans on that. I don't have all the details on that.
- 3 Q. Okay. I'll save that question for later. One last area  
4 that I would like to get a little more information about,  
5 there was an amendment to Exhibit 28 that listed some areas  
6 where surveys had not yet been completed and I think I'm  
7 correct in pointing out that there are actually areas shown  
8 on the alignment sheets where environmental survey data is  
9 missing that goes beyond this list. Are you aware of the  
10 fact that there are additional areas where survey data is  
11 not available?
- 12 A. It's my understanding there are about four miles of  
13 inaccessible areas in Northern New Hampshire that we don't  
14 have field survey data. I understand there may have been a  
15 couple of those omitted from that table. We'll have to  
16 check on that and get you a revised table, if there is.
- 17 Q. I've actually got eleven alignment sheets that have  
18 information missing that would come out of environmental  
19 surveys. They can be things like wetland delineations or  
20 they can be simply identified gaps where environmental data  
21 is missing, and that's noted on the drawings. I can either  
22 give you this list or read it off for you and perhaps you  
23 can get back to us and provide us that information.
- 24 A. Okay.

1 Q. Would you like me to read down this list?

2 A. Sure. Yes, please.

3 Q. First of all, a series that are identified as PTE-T14  
4 5000-1 and then a series of numbers and that series of  
5 number is 25, 29, 30, 32, 34, 39 and 40. And I noticed  
6 Irene has just crossed off one of these, so we only have  
7 ten. The rest of them are identified as PTE-T14 4000-1 and  
8 it's sheets 27 and on sheet 64 there is apparently two  
9 areas. I think that's it.

10 CHAIRMAN VARNEY: Ken.

11 MR. COLBURN: Just a couple of questions to  
12 clarify my understanding of the Shelburne variation and the  
13 current use of Hogan Road.

14 Examination by Mr. Colburn:

15 Q. I refer in part to the draft environmental impact statement  
16 of FERC, it talks about the Shelburne variation. It talks  
17 about crossing three water bodies. I would understand that  
18 two of those are crossings of the Androscoggin River. Any  
19 idea what the third one is?

20 A. They're talking about the proposed route to the south?

21 Q. Yeah.

22 A. Peabody River.

23 Q. That's not in the Shelburne alternative, is it. That's in  
24 Gorham South.

1 A. If the mouth of the Peabody River is -- I'd have to look on  
2 the maps. I'm not sure exactly which one they're referring  
3 to.

4 Q. It may be a channel there in the islands or something.  
5 It's pretty close to the Adroscoggin that I interpreted as  
6 one. Perhaps it's literally two?

7 A. Well, there's a number of perennial streams on -- there's a  
8 number of perennial streams that would be crossed on the  
9 Shelburne Route on the south side Kidder Brook, School  
10 House Brook.

11 Q. Right, but if those are the numbers counted, then we would  
12 be in the 7 or 8 total instead of 3 total?

13 A. Frankly, I'm not sure which ones they counted.

14 Q. A clarification on the same chart that FERC used. This is  
15 table 627-1, cites the Shelburne alternative as going  
16 through 3.6 miles of forest, versus the proposed route of  
17 2.9, I believe. I'm presuming that that 3.6 miles is  
18 through the existing right-of-way and that the existing  
19 right-of-way and forests crossed are not mutually  
20 exclusive, that those are counted -- those are the same  
21 miles. Would that be your understanding? Do you see where  
22 I mean?

23 MR. KRUSE: I may have interfered, sir, if I gave  
24 him the wrong thing. I thought I had an excerpt to the DES that

1 you were referring to.

2 MR. SCHMIDT: This would be Table 6.2.7-1. It's  
3 at page 6.8 in the draft DES?

4 A. I found it now. Can you repeat the question.

5 Q. Sure. Just a clarification on the proposed route it  
6 indicates 2.9 miles of forest crossed and under the  
7 Shelburne variation, 3.6 miles of forest crossed some of or  
8 all of that additional forest crossed is actually existing  
9 right-of-way, is that correct?

10 A. On the Shelburne variation?

11 Q. Yes.

12 A. I believe so, yes.

13 Q. So, it is additional forest land probably within the White  
14 Mountain National Forest but it is also existing  
15 right-of-way, probably the Portland right-of-way. Would  
16 that be your understanding?

17 A. Yes.

18 Q. Okay. Thank you. In terms of Hogan Road, I understand  
19 that there is gravel mining going on now and more planned  
20 and clear cutting going on now. What is the route egress  
21 for those products, do you know?

22 A. Hogan Road.

23 Q. Does it exit to the east?

24 A. Yes.

- 1 Q. So, that's already a fairly heavily used road?
- 2 A. Yes. It is, right now, especially with the logging in  
3 there that is going on in there. There's a lot of truck  
4 driving.
- 5 Q. And the mining is planned for expansion?
- 6 A. Yes.
- 7 Q. Are there residences that exist on that road at this point?
- 8 A. Not on Hogan Road.
- 9 Q. Okay. So, development is of interest there, but it's not  
10 exactly a quiet country road either at this point?
- 11 A. It's a country road, but it gets a fair amount of traffic.  
12 There is a camp, at least one camp, that I'm aware of on  
13 the road.
- 14 Q. Your testimony and I believe the first draft DIS cites --  
15 this is back to the Shelburne variation, engineer  
16 constraints at the crossings and doesn't elaborate.  
17 Obviously, any crossing is more complex than no crossing,  
18 but is there anything particular about the crossings in the  
19 Shelburne variation that render them particularly  
20 difficult?
- 21 A. FERC Shelburne variation or the Gorham?
- 22 Q. The Town of Shelburne variation.
- 23 A. The Town of Shelburne variation, the one that they're  
24 proposing now?

1 Q. Going through the golf course and then out to North Road.

2 A. It is a wide river with -- on the north side it's all  
3 forested. There would be a substantial amount of clearing  
4 required for staging areas to conduct the crossing. The  
5 river is braided through that area. There are a number of  
6 islands and separate channels. There is one location where  
7 there a single channel. That would be, you know, the  
8 relative easiest area to cross, but it is a hard river to  
9 cross. It will be challenging.

10 Q. One of the news articles that Rep. Guay provided us, which  
11 you may not have been able to look at yet, used the figure  
12 of \$7 million for the incremental costs for the Shelburne  
13 alternative. Does that sound about right?

14 A. I'm not the right person to answer that.

15 MR. SCHMIDT: Not the right witness to ask.

16 Okay. I'll reserve those questions for later. Thank you.

17 CHAIRMAN VARNEY: Michael.

18 MR. CANNATA: I have a few follow-up questions.

19 Examination by Mr. Cannata:

20 Q. Mr. Trettel, do you remember the conversations you had with  
21 Commissioner Ellsworth on the data which was supplied to  
22 FERC and the analysis that FERC did on its own with regard  
23 to the routing?

24 A. Yes.

- 1 Q. On a scale of 1 to 100, if the Portland Pipeline was 100,  
2 what kind of analysis would FERC have done being 500 miles  
3 away or 1,000 miles away?
- 4 A. I'm not sure I understand the question.
- 5 Q. All right. Let me try again. You indicated that FERC did  
6 its own independent analysis, in addition perhaps to  
7 relying on the data that you supplied it?
- 8 A. That's correct.
- 9 Q. If your analysis was deemed a 100 on that same scale, what  
10 would the FERC analysis be deemed in terms of its depth and  
11 quality?
- 12 A. It would be close to 100, I would think. They've done  
13 their own independent analysis of the entire project. They  
14 use our data but they supplement it as needed and they  
15 confirm it and they do their own field surveys and I would  
16 have to say they've done a thorough analysis.
- 17 Q. Equivalent to that of yours?
- 18 A. I cannot say. I don't know.
- 19 Q. Well, I thought that's what you just stated and I'm not  
20 trying to be difficult. I'm just trying to grasp it.
- 21 A. I couldn't say if it is, you know, totally equivalent to  
22 ours, but I would say it's a good thorough analysis.
- 23 Q. And I think in response to a question by Dr. Schmidt you  
24 talked that the rock spoil would be distributed over the

- 1 temporary work space?
- 2 A. That's correct.
- 3 Q. The temporary work space is not part of the permanent  
4 easement, is it?
- 5 A. No, it is not.
- 6 Q. And doesn't the leaving of the spoil actually impair the  
7 property on a permanent basis?
- 8 A. Well, what -- the majority, almost, if not all of the spoil  
9 is returned to the trench. What I'd be talking about is  
10 existing surface rock that would have to be moved to the  
11 side of the right-of-way during construction. We're not  
12 talking about large spoil piles.
- 13 Q. Well, if I take a pipe that's 30 inches in diameter, that's  
14 approximately 3 feet, I think I've got a trench by X feet  
15 wide by 3 feet deep, that I've got to get rid of the spoil  
16 somewhere.
- 17 A. It basically goes back in the trench. If you spread the  
18 amount material displaced by a 30 inch diameter pipeline  
19 over a 50 foot or 75 foot wide work space, there's been  
20 calculations made that it is half an inch or somewhere --  
21 it's a very small amount of material that's actually  
22 displaced by the pipeline over that -- over that width.
- 23 Q. So, existing property owners whose property you utilize for  
24 temporary work space will not have their property impaired

- 1 by that?
- 2 A. No, sir.
- 3 Q. Okay. I think you indicated at some point in your  
4 testimony that you missed in an ideal window for reviewing  
5 hazardous areas because of the route change and that the  
6 survey would be completed late this coming fall.
- 7 A. I think I stated that we missed a window for threatened and  
8 endangered species.
- 9 Q. Okay.
- 10 A. And those surveys are being conducted during the  
11 appropriate seasons this year.
- 12 Q. To be completed this fall?
- 13 A. To be completed by the fall, yes.
- 14 Q. Now, you have an application in front of this Committee  
15 hoping for an approval next month. What other information,  
16 other than this analysis, does the Committee not have or  
17 will not have in front of it to help base its decision?
- 18 A. There are a few areas where we have not been able to gain  
19 permission to access the property to do ground surveys for  
20 wetlands, for archeological resources.
- 21 Q. The so called "skips"?
- 22 A. The skips. And what we have done to try to get as much  
23 information as possible in those areas is we've done remote  
24 sensing type of analysis; reviewing maps, published

1 information, aerial photography and those locations have  
2 been provided. That information has been provided. I  
3 don't think there would really be anything that is coming.  
4 Well, the completion of the cultural resources surveys in  
5 Northern New Hampshire.

6 Q. And my question is restricted to the environmental aspect,  
7 which is all you testified on. All right, the life of the  
8 pipeline has been said to be fifty years give or take, is  
9 that correct?

10 A. Mm hmm.

11 Q. When the pipeline out lives its useful life and has to be  
12 shut down for safety or whatever reason, just because its  
13 longevity has been used up, what happens to this  
14 right-of-way?

15 A. I'm probably not the best person to ask. Mike Morgan could  
16 probably give you a better answer.

17 Q. Could Mr. Morgan respond?

18 MR. MORGAN: Yeah. I'm Mike Morgan. The answer  
19 to that question that we've given in the past, and I think is  
20 still consistent, is that with operating and maintenance  
21 procedures that we employ, the life of the pipeline is in  
22 perpetuity. With rehab, with cathartic protection, we can  
23 maintain its use indefinitely. What normally runs out is the  
24 market. So, if the pipeline is deemed to be not needed any

1 more, it's normally because of the market. I think we can --  
2 pipelines have been in operation for over fifty years now and  
3 will continue to be in operation for many years to come. It  
4 just requires a maintenance program to keep it in good  
5 condition.

6 MR. CANNATA: Does the property ever revert back  
7 to the landowners, the easement revert back to the landowners  
8 when it is no longer used to transport natural gas?

9 MR. MORGAN: I guess I don't have any experience  
10 with that. I think the easement agreements, and maybe I should  
11 let Chris talk, but the easement agreements are in perpetuity.  
12 If the pipeline is abandoned in place, I'm not exactly sure what  
13 the exact procedures are for abandonment procedures through the  
14 Federal Regulatory Commission.

15 MR. CANNATA: Is that something you could supply  
16 this Commission with?

17 MR. MORGAN: Oh, yeah. We could get some  
18 information on that.

19 MR. CANNATA: If you would please, thank you.

20 Q. When Ms. Ludtke was cross-examining you yesterday, Mr.  
21 Trettel, she showed you a series of maps with orange tape  
22 on it that she could not coordinate the various items that  
23 were on the map. If she could not align the material on  
24 the alignment sheets how does PNGTS do it?

1 A. I believe that was Chris Wilber's testimony, but we -- it's  
2 just a matter of understanding how the alignment sheets  
3 work and being able to scale off the band on the bottom of  
4 the alignment sheets will show the width or the size of the  
5 work space and the distance of the offset from the road or  
6 water body or wherever it is located and you can scale off  
7 from the edge of the road or the water body or whatever  
8 feature the work space is near and identify it where it  
9 falls.

10 MR. KRUSE: I'm sorry. I'm going to ask  
11 Mr. Morgan to address that for you, sir.

12 MR. CANNATA: That would be fine.

13 CHAIRMAN VARNEY: Any other questions, Mike?

14 MR. CANNATA: Yes, I do. Is he going to address  
15 that?

16 MR. KRUSE: He can do it now or --

17 MR. CANNATA: Yes, please.

18 MR. KRUSE: Perhaps if Leslie could bring out the  
19 alignment sheet that you were using yesterday to raise the issue  
20 of scaling of the ATWS on the alignment sheet. Do you recall  
21 that? And Mike you could take Roger's mic and explain how that  
22 works.

23 MR. CANNATA: And I bring this up because I had  
24 problems scaling it myself. I could not find the common

1 denominator in order to utilize those maps appropriately.

2 MR. MORGAN: Okay. I'm looking at drawing 22,  
3 5000-1:22.

4 MR. KRUSE: Why don't you put it right here?

5 MR. MORGAN: I guess what my presentation was  
6 going to be here today on direct was the issue of the  
7 development of the requirement for ATWS and where it is located.  
8 As we go through and survey a center line survey with data  
9 collectors, basically what they do is, they set up on center  
10 line or they can even set up offset and they just take shots to  
11 different points and its coded and there's a code for every  
12 center line of road. There's a code for edge of house. There's  
13 a code for a fence and it all comes out in the data collector.  
14 In addition to that, we provide field notes and in those field  
15 notes is handwritten documentation, not as accurate as what this  
16 data collector information has provided but in the old days we  
17 use to chain everything. I mean you had to chain everything.  
18 We chained everything from over to the fence but now they do it  
19 with the data collectors and they get distances and bearings.  
20 So, if the field notes you don't get exact distances. The guy  
21 is waiting on the data collector information to be processed  
22 back in the engineering office to tell exactly really how far it  
23 was to that fence or how far it was to that house. So, what we  
24 have to do out there in the fields, our engineering supervisors

1 have to do, is they have to look at a situation and in this case  
2 they are going to look at the crossing of Granite State and  
3 they're gonna say we need some extra work space on both sides of  
4 the pipeline to help us with the trench bowl that we're going to  
5 create underneath it and in general we need about, you know, 25  
6 x 100 on each side, okay. The problem he has is he doesn't know  
7 the exact distances from here to that fence or from here to that  
8 corner of that shed. So, he just puts that in there as a 25 X  
9 100 and then when it actually gets incorporated into the  
10 alignment sheet on a final design for a construction drawing,  
11 then you can see the discrepancies that Leslie is bringing up  
12 where it doesn't actually fit and it has to be adjusted. The  
13 same thing happens on a road crossing. He's standing there and  
14 the typical is 50 x 100 or 25 x 100 is normal industry standards  
15 and he says give me 25 x 100 here and it turns out, you plot it  
16 on there and it bumps right up into that guy's garage and he  
17 didn't know it was only 80 feet to the garage or, you know, he  
18 didn't chain it out there in the field. So, there is some  
19 discrepancies. I would say this is more an abnormality than it  
20 is a frequent occurrence, but it does happen. We found a couple  
21 of other ones in the State of Maine where that exact thing is  
22 happening and what ends up happening is the right-of-way agents  
23 now are out there and we'll be able to see it in the final  
24 development and construction drawings, but the agents are out

1 there right now in the field and they go up to a landowner and  
2 normally what we try to do is walk off and show them exactly  
3 where the impact is going to be and the landowner says, hey,  
4 that thing is right up next to my garage. So, they come back  
5 and readjust, and you know, it is definitely an editive process  
6 though. Sometimes you have problems with the actual -- these  
7 are typical ATWS areas that are needed for these type of  
8 activities and during our field development, you know, sometimes  
9 those things happen.

10 MR. CANNATA: If this Committee were to approve  
11 the applicant's proposal as it is submitted, it is submitted  
12 with these work spaces.

13 MR. MORGAN: That's right.

14 MR. CANNATA: And do we run into a problem when  
15 the work spaces conflict with what is actually on the ground so  
16 that that particular landowner may wind up losing his garage in  
17 the example that you provided?

18 MR. MORGAN: Well, I guess my comment back to  
19 that is, you know, I can -- it goes without saying we will not  
20 move anybody's garage. We will not move anybody's home. We  
21 will not -- you know, we do -- sometimes the landowner wants his  
22 garage taken out, you know, we go to the landowner and say, you  
23 know, we really need some room here. "Take my garage." Okay,  
24 so, you're looking at this picture and you see a garage there,

1 the landowner wants it gone. We had that in Maine. We had  
2 three or four different situations where we're taking out  
3 buildings because the landowner wants it gone. I mean we're  
4 providing a service for him. So, there is site specific  
5 negotiation with every landowner. We are not going to take  
6 anyone's buildings or structures that they do not want. We  
7 will, you know, we can put that in the conditions if you would  
8 like. We will not take it without consent of the landowner.  
9 So, that's reason for the discrepancies.

10 MR. CANNATA: Thank you. I have a few other  
11 questions.

12 Q. Mr. Trettel in the -- I guess we call it prefile rebuttal  
13 of June 19th on page 6, Ms. Ludtke directed to you a  
14 statement which was made. "However PNGTS conclusions  
15 unequivocally supported by FERC staff was that the  
16 disadvantages clearly outweighed the purported advantages  
17 of such alternatives." And this is with regard to the  
18 Gorham Route and the revision route.

19 A. That's correct.

20 Q. And I just wanted to make sure I'm clear, what FERC was  
21 supporting was the information that existed as of November  
22 '96 where as the PNGTS conclusion was based on more recent  
23 information?

24 A. The FERC was basing their determination on our original

1 filing and any data responses that we provided to them, as  
2 well as any independent analysis that they filed.

3 Q. A comment was made regarding the White Mountain National  
4 Forest earlier this morning during your testimony. In  
5 regards to the original filing that the applicant put forth  
6 in front of this Committee, the original routing which  
7 utilized existing Portland Pipeline for 93% of the way or  
8 existing right-of-ways for 93% of the way. How much  
9 national forest in the White Mountains was crossed in the  
10 original application?

11 A. I don't recall the exact mileage. I can't say answer that.  
12 Chris Wilber may --

13 Q. Approximate?

14 A. I'll let Chris answer.

15 MR. WILBER: Yes, I would say approximately three  
16 miles and that was mostly in the -- I believe in the Jefferson  
17 area.

18 MR. CANNATA: And is there additional White  
19 Mountain Forest area in the Shelburne area?

20 MR. WILBER: Along the revision route we would  
21 not be crossing any White Mountain National Forest, as the  
22 proposal by the Town of Shelburne would in fact impact some  
23 national forest land.

24 MR. CANNATA: I'm speaking of the existing -- or

1 actually the original application that was originally filed.

2 MR. WILBER: Yes, it, did. It also crossed.

3 MR. CANNATA: And that was approximately -- what  
4 was the distance there.

5 A. I believe somewhere in the vicinity of 500 or 600 feet, and  
6 that's if my memory serves.

7 MR. CANNATA: And those were not considered  
8 environmental constraints under the original application?

9 MR. WILBER: I believe that they were considered.  
10 I am not sure of the actual weighting that was given to those.

11 Q. (Cannata) The last question I have, Mr. Trettel, you  
12 indicated that either you or your company has partaken in  
13 approximately twenty construction projects, mainly gas,  
14 natural gas transmission lines.

15 A. I indicated that I have been involved with permitting  
16 activities on over twenty projects and have been involved  
17 with construction -- I don't -- I'm not sure how many  
18 projects I stated, but on a number of construction  
19 projects.

20 Q. And that either you or your company also provided  
21 inspection during construction?

22 A. Yes, we have.

23 Q. Was any of those projects the Iroquois project?

24 A. No it was not.

1 MR. CANNATA: Thank you.

2 CHAIRMAN VARNEY: Jeff.

3 Examination by Mr. Taylor:

4 Q. Mr. Trettel, this morning in various discussions about the  
5 evaluation process, in many instances, whether it was the  
6 Gorham South or the Gorham North, it seemed that there was  
7 a great deal of consideration given to the river crossings  
8 that were associated with those layouts, as opposed to the  
9 company's favorite proposal, it stays on the north side of  
10 the river. As I look at these maps here, I see that there  
11 is a dam and a hydro station near the Leadmine State  
12 Forest, another one near the golf course, another one near  
13 the railroad bridge at the upper village end of Gorham  
14 looking at other materials I know that there are numerous  
15 hydro stations up stream of that and I know that  
16 periodically there is the opportunity to manipulate the  
17 river level by either opening or closing the dams that are  
18 associated with those. They are frequently opened during  
19 mill shutdowns or for maintenance. Can you tell us whether  
20 a consideration for the river crossings was done with the  
21 dams closed and a full pond of water behind them or was  
22 there consideration given in the river crossings to opening  
23 some of those facilities to minimize the disturbance to  
24 minimize the amount of open water that would have to be

1           crossed with the pipe?

2    A.    We initially -- we primarily assumed that there would be  
3           water in the river and did consider the possibility of  
4           trying to work with the dams upstream to try to minimize  
5           the amount of water but we made the assumption that we  
6           would have to cross, that these would be actual river  
7           crossings with water.

8    Q.    If you were able to work out an agreement with the  
9           operators of the dams, would that change your analysis?

10   A.    There would still be significant impacts associated with  
11           the staging areas needed for crossing the rivers and there  
12           would also still be potential for disturbing contaminated  
13           sediments that may occur in the river. Dioxin primarily  
14           has been identified as potentially occurring downstream of  
15           the plants in Berlin. So, even if we were able to control  
16           some of the water to minimize the amount of flow, there  
17           would still be significant impacts associated with water  
18           crossings.

19                           CHAIRMAN VARNEY: Bruce.

20   Examination by Mr. Ellsworth:

21                           MR. ELLSWORTH: Mr. Trettel, just as a matter of  
22           interest, do you know how many river crossings the Company  
23           anticipates to make in the northern portion of the project?

24   A.    Major river crossings or individual streams.

1 Q. Major river crossings. Well, let me ask first, would you  
2 consider the crossing of the Androscoggin to be a major or  
3 minor river crossing?

4 A. Major.

5 Q. Okay. I'm thinking along the lines of that size crossing.

6 A. Connecticut River, the two Upper Ammonoosuc River  
7 crossings, the Androscoggin north of Berlin. That's  
8 essentially the major river crossings.

9 Q. So, there are four in the northern crossing. And in the  
10 southern portion?

11 A. Piscataqua, Squamscott, I'm drawing a blank here. Exeter,  
12 I guess that wouldn't be consider a major river crossing.  
13 Those are those.

14 Q. Okay. And as a matter of clarification, you explained to  
15 us earlier your evaluation of the Shelburne Route, so  
16 called, which crosses the river and goes across the golf  
17 course. I don't remember that we have a specific location  
18 for that crossing. What specific location did you use in  
19 your evaluation?

20 A. We looked at a crossing point which would have been at  
21 approximately mile post 69.5.

22 MR. KRUSE: Microphone.

23 A. We looked at a crossing point at approximately mile post  
24 69.4 or 5, somewhere in that area just before the island,

1 see this large island in the river, to try to avoid having  
2 to cross two channels of the river. As you move farther  
3 down there's more islands in the river. We were also  
4 trying to be consistent with what FERC had requested us  
5 to look at. They kind of gave us a ballpark of where to  
6 cross. They didn't specify exactly where. So, we took it  
7 right around from 69.5.

8 Q. And then where did it meet the existing pipeline?

9 A. It traverses southeasterly and would have met the existing  
10 Portland Pipeline just a little bit east of where the Town  
11 and Country Motel is.

12 MR. ELLSWORTH: Thank you.

13 CHAIRMAN VARNEY: Sue.

14 Examination by Ms. Geiger:

15 Q. Mr. Trettel, I believe you testified earlier that some  
16 blasting would be required along the proposed route, is  
17 that correct?

18 A. That's correct.

19 Q. What if any blasting would be required if the pipeline were  
20 situated along the so called Shelburne Route?

21 A. I don't know specifically but there may be some blasting  
22 required. It would be probably similar types of bedrock  
23 and similar geology in there, yeah.

24 Q. Would it be reasonable to assume that if the proposed

1 pipeline followed the existing corridor for the existing  
2 right-of-way where the current pipeline exists that there  
3 would be -- that there would be less blasting and less  
4 clearing than the route that you had proposed?

5 A. I can't speak to the blasting. There would be more total  
6 acreage of forest clearing along the route through Gorham.

7 Q. And could you explain why that is? I guess the confusion  
8 I'm having is having visited that area and having seen the  
9 existing right-of-way, again south of the Androscoggin, and  
10 having visited the area to the north of the river, there --  
11 since the pipeline exists, the current pipeline exists in  
12 the area that had been cleared, why it would not be  
13 reasonable to assume that there would be less clearing  
14 associated with that path, than with your proposed route?

15 A. Well, number one, it's about 3.3 miles longer; and number  
16 2, while we would be following an existing cleared corridor  
17 we would have to clear approximately an additional 40 to 50  
18 feet adjacent to that. So, it's longer. It would be less  
19 clearing or we wouldn't have to clear as wide of a  
20 corridor, because the portion we would use -- make use of  
21 the existing cleared corridor.

22 MS. GEIGER: Okay. Thank you for that  
23 clarification.

24 CHAIRMAN VARNEY: Doug.

1 Examination by Mr. Patch:

2 Q. I believe you had testified about, you know -- generally  
3 about the difficulties of crossing the river in order to  
4 comply with the route that is advocated by the Towns of  
5 Gorham and Shelburne and I remember from the visit that we  
6 did, there was essentially a ford there and there were some  
7 power lines that came across the river. I wonder if you  
8 could elaborate on the difficulties that you saw with that  
9 particular crossing.

10 A. That would be an extremely difficult river crossing. Well,  
11 the river crossing, as well as the Highway 16 crossing,  
12 would be very difficult. Our normal procedure would be an  
13 open cut of the river and a horizontal bore of the road,  
14 but because the is river is directly adjacent to the road  
15 at that point. It prohibits us from doing are really  
16 either of those things. Essentially, we would propose an  
17 open cut of the river and would likely have to open cut  
18 road, because there's no way to construct a bore pit in  
19 the -- because the river is directly adjacent to the road  
20 and as far as alternative methods I probably should defer  
21 to Mike Morgan on that.

22 Q. Mr. Morgan, can address that when he testifies. That's  
23 fine. I thought I heard you say three bodies of water that  
24 need to be crossed there. I remember that there was an

1 island of sorts there. Did I hear you correctly or not?

2 A. There's two branches of the Androscoggin and you'd have to  
3 cross those and then head south and then head east again.  
4 You'd cross the Peabody River and a number of small  
5 perennial streams and then the Androscoggin River again.

6 Q. Okay. That's what you meant by the three then. Compared  
7 to the -- to a river crossing that would be done in  
8 conjunction with the FERC proposed route, could you rate  
9 the difficulty, you know, prepare the difficulty of those  
10 two proposed crossings, the one further up the Androscoggin  
11 in order to comply with the alternative proposed by Gorham  
12 and Shelburne, as compared to their river crossing down  
13 near the golf course to comply with the FERC rule?

14 A. I believe the crossing at the golf course would be  
15 considerably better than the other crossings.

16 Q. And how do both of those alternatives compare to the other  
17 river crossings further north, that you mentioned in  
18 response to Commissioner Ellsworth's question?

19 A. Crossings of other rivers father north?

20 Q. Yeah, the Connecticut and the two Ammonoosucs.

21 A. The Connecticut River we're currently proposing as a  
22 directional drill. The two upper Ammonoosucs are on the  
23 order of 100 foot wide, 80 to 100 foot wide. I believe  
24 they're smaller. They have relatively good access and

1 pretty level banks, level approaches, cleared areas  
2 adjacent to them. They should be relatively  
3 straightforward open cut crossings. The Androscoggin River  
4 crossing north of Berlin is going to be a little bit more  
5 challenging, because it has high banks. I should probably  
6 defer to Mike Morgan on that. He has more details on  
7 those.

8 Q. We spent a fair amount of time or you spent a fair amount  
9 of time responding to questions about the criteria that we  
10 used in evaluation of the alternative routes and I guess I  
11 would like to know whether the criteria you used are  
12 typical criteria that are used in the industry to evaluate  
13 alternative routes?

14 A. We look at the resources that are essentially evaluated by  
15 FERC and other regulatory agencies as being important  
16 resources that need to be considered in site construction  
17 of one of the these projects. As far as the specific  
18 diversional assessment table, there is no real standard  
19 methodology. There's a number of different models out  
20 there. This is a model that we've chosen to use and it  
21 seemed to address the major resources that need to be  
22 evaluated as part of the process.

23 Q. In looking at the resume that was supplied, your resume in  
24 conjunction with the February 14th filing, you've worked on

1 a number of pipeline projects and I wonder if the criteria  
2 used here are similar or the same as what you've used on  
3 other pipeline projects?

4 A. Essentially, I've worked in various capacities in other  
5 projects, sometimes coming in later in the game, you know,  
6 after the route has been chosen and sometimes being  
7 involved in early route selection. It has been variable.

8 Q. So, the criteria -- is it fair to say in the industry that  
9 the criteria varied then, depending on the project?

10 A. They wouldn't vary drastically. There are resource reports  
11 that we prepare for a FERC filing that address the issues  
12 that MEBA identifies as important environmental issues that  
13 need to be evaluated for a project like this and but that  
14 is consistent across the board. We look at water  
15 resources, vegetation and wildlife, cultural resources,  
16 soil geology, hydrology, alternatives and those are the  
17 major categories and events, the major resources that are  
18 looked at.

19 Q. But it sounds as though there is no standard list of  
20 criteria other than the -- at least used by the industry  
21 other than the criteria that Ms. Ludtke asked you about  
22 that were, as I understood it, criteria used by the Army  
23 Corps of Engineers? Is that the most standard criteria  
24 that is used?

1 A. I guess I can't answer that. The criteria that we've used  
2 are fairly standard I can't say that they're exactly the  
3 same on every project.

4 CHAIRMAN VARNEY: Robb.

5 Examination by Mr. Thompson:

6 Q. You stated that the current pipeline right-of-way in  
7 Shelburne goes through Leadmine State Forest?

8 A. That's correct.

9 Q. What's the distance that it traverses the State Forest  
10 there?

11 A. Our current proposal?

12 Q. No, the current right-of-way in Shelburne.

13 A. Oh, the current right-of-way. I'm not sure of the exact  
14 distance. Chris Wilber might have those numbers.

15 MR. WILBER: I would have to say probably around  
16 800-900 feet. That's just a guess, somewhere in that magnitude.

17 Q. And your proposed revised pipeline route would traverse  
18 Leadmine State Forest for how long a distance?

19 MR. WILBER: Just roughly, I'd say somewhere in  
20 the vicinity of three quarters of a mile.

21 A. About 1.8 miles.

22 Q. Okay. Thank you.

23 A. No, I'm sorry, 0.8.

24 MR. PFUNDSTEIN: Are you are sure?

1 A. I'm sure.

2 CHAIRMAN VARNEY: Other questions? Ken.

3 Examination by Mr. Colburn

4 Q. Just a couple of additional clarifying questions following  
5 on Commissioner Thompson's question about Leadmine State  
6 Forest. Is there any of that forest that is south of the  
7 river?

8 A. Yes.

9 Q. Okay. So that's where that right-of-way impinges on the  
10 State Forest?

11 A. That's correct.

12 Q. Okay. And then following on Commissioner Geiger's  
13 question, you responded that the additional length of the  
14 alternative 3.3 miles. I trust in that you were referring  
15 to the Gorham alternative, rather than the Shelburne  
16 alternative?

17 A. That's correct.

18 Q. How much longer is the Shelburne alternative?

19 A. It's roughly the same. It's slightly longer, a couple  
20 tenths of a mile possibly. I'd have to look.

21 MR. THOMPSON: Thank you.

22 CHAIRMAN VARNEY: Deborah.

23 Examination by Ms. Schachter:

24 Q. In your testimony earlier, you referred, I believe to sixty

1           comments and conditions received from DES and suggested  
2           that there was general agreement with about two thirds of  
3           them and I would benefit from some more explanation of the  
4           roughly one third, twenty or so conditions that you  
5           disagree with, so we could understand where you are taking  
6           exceptions to those conditions.

7    A.    Do you want me to go through specific conditions or I can  
8           give you just general --

9    Q.    Well, I don't know if you could group them or --

10                   CHAIRMAN VARNEY:  Is there a response letter in  
11           the works?

12                   THE WITNESS:  Yes.

13                   MR. KRUSE:  Actually, Mr. Chairman, counsel for  
14    DES has indicated they would be amenable to meeting to resume  
15    discussions by the end of this week and we would hope that out  
16    of the those discussions -- Irene Garvey is indicating that that  
17    may not be the case, but anyway, the plan was that we would get  
18    together and if we could get something written in advance, we  
19    will.  That had been one of our hopes, but we were unable to do  
20    it in time for this hearing but we expect in the next few days  
21    to be meeting with DES to resume discussions.

22                   CHAIRMAN VARNEY:  Perhaps you could just  
23    summarize the major items with the understanding that this is  
24    something that they are in the process of responding to in

1 detail.

2 MS. LUDTKE: Could I respond to Attorney Kruse's  
3 statement? This has been a concern of Counsel for the Public on  
4 an ongoing basis, that meetings are taking place with the agency  
5 staff and conditions are being discussed without the  
6 participation of the Public Counsel in those conditions. This  
7 is supposed to be an adversarial process were the proposed  
8 conditions are presented and the Public Counsel has an  
9 opportunity to look at those proposed conditions and cross  
10 examine the applicant on those proposed conditions without this  
11 discussion taking place outside the adversarial hearing process.  
12 So, to the extent that Public Counsel is not included in the  
13 discussions regarding these changes of proposed conditions, I  
14 would object as a matter of procedure.

15 MR. PFUNDSTEIN: Excuse me, Mr. Chairman. The  
16 applicant has absolutely no intention whatsoever of excluding  
17 Public Counsel from that meeting. In fact, I had some  
18 discussions with Jeff Myers, the Assistant Attorney General who  
19 we have been working on with this on behalf of DES and I can  
20 assure you that those discusses will not take place in the  
21 absence of Public Counsel.

22 CHAIRMAN VARNEY: Let's just be clear on that,  
23 that that's the expectation of the Committee, that there will be  
24 a complete group effort on this, including Public Counsel in

1 those discussions. Thank you. Yes.

2 MR. CARLISLE: Just one quick hypothetical  
3 question; if at sometime in the future you came back and  
4 revisited our area working for maybe the same company or a  
5 different company looking at a second pipeline, whether it's oil  
6 or gas or a utility line, if we allow the pipeline to be routed  
7 on the Hogan Road, your proposal, would that then, in your  
8 estimation, become the right-of-way preference for future  
9 projects as an existing right-of-way? Is it setting a  
10 precedence, in other words?

11 THE WITNESS: I guess it depends on where the  
12 other pipeline would be coming from, if it were a pipeline that  
13 were coming down from Berlin along that corridor, it would make  
14 the most sense to remain on that corridor. If it was on the  
15 other side of the river, we'd have to take another look at that,  
16 but yeah, it would make the most sense to follow that if we were  
17 already on that side of the river, yes.

18 MR. CARPENTER: Being more specific, could you  
19 address a hypothetical of the Portland Pipeline, who has  
20 indicated that they will be seeking replacement of some of their  
21 lines in the not distant future, would this likely become a  
22 corridor choice for them?

23 THE WITNESS: Very doubtful they would want to  
24 stay on their existing corridor.

1                   MR. CARPENTER: But would this become an  
2 environmental corridor of choice, based on the determinations  
3 that you've made that their existing route has what you believe  
4 to be deficiencies?

5                   THE WITNESS: I really can't speak for Portland  
6 Pipeline, but I would assume they would want to stay on their  
7 existing corridor.

8                   CHAIRMAN VARNEY: I think, if we could get back,  
9 you were still going to summarize the major areas just in very  
10 summary terms, general terms.

11 A. Yes, as I ran through earlier we still have some issues  
12 regarding placement of rip rap and on stream banks and  
13 design of that. We have some issues regarding the proposed  
14 water bar spacing that the DES has requested that we use  
15 for erosion control, the DES has placed a draft condition  
16 regarding monitoring for nuisance species and we need to  
17 discuss that and they also talk about storm events and what  
18 characterizes a storm event and what we would have to do in  
19 the event of a storm event and then they have also  
20 indicated the conditions for seeding windows and  
21 restoration of the right-of-way we just would like to  
22 discuss that.

23                   CHAIRMAN VARNEY: Any other questions?

24                   MS. SCHACHTER: I would just want to ask a point

1 of clarification that procedurally of the Committee, that at  
2 such time as those conditions are discussed in the meeting that  
3 included the Public Counsel then would those be presented back  
4 to this Committee prior to our June 15th deadline, is that what  
5 you envision?

6 CHAIRMAN VARNEY: Yes. And there is also in the  
7 schedule final agency comments. I believe, is it the 7th of  
8 July?

9 MS. SCHACHTER: Okay. Thank you.

10 MR. IACOPINO: May I follow with two questions,  
11 one is on blasting issues. Haley & Aldrich had some  
12 recommendations in their testimony. Does the Company object to  
13 those recommendations?

14 THE WITNESS: I think I'll refer to Mike Morgan  
15 or Brent Evans regarding that.

16 MR. IACOPINO: I'm looking to see if we can  
17 eliminate issues here.

18 THE WITNESS: I'm not sure.

19 MR. IACOPINO: Are there any issues with the  
20 recommendations made on blasting?

21 MR. PFUNDSTEIN: Thank you, Mr. Iacopino. We're  
22 specifically going to respond to the other question you asked,  
23 concerning which recommendations, I believe of Haley and  
24 Aldrich, at that point and we'll certainly address the blasting

1 issues as well in our submission, so you have a clear  
2 articulation of which ones are and which ones are not, at least  
3 from our perspective, acceptable.

4 MR. KRUSE: One of the reasons I asked Brent  
5 Evans to be prepared to testify was to respond to questions of  
6 blasting. That is our intention.

7 MS. LUDTKE: Mr. Chairman, two things, I have a  
8 few follow-up questions for Mr. Trettel, but I would ask if the  
9 Committee would consider allowing Public Counsel to go out of  
10 turn and put some of its witnesses on. We have had witnesses  
11 here for quite some time expecting that we would be able to put  
12 witnesses on today and I know that Mr. Flumerfelt is not  
13 available later and the applicant is planning on using tomorrow  
14 to put Mr. Flumerfelt on. So, if we could go out of order and  
15 put our witnesses on, a few of our witnesses on, who have been  
16 very patiently waiting here for quite some time, I would  
17 appreciate that and then allow the applicant to have the first  
18 of the morning tomorrow, if that is acceptable.

19 CHAIRMAN VARNEY: Mr. Kruse?

20 MR. KRUSE: That's acceptable. I do have a  
21 couple of brief points on redirect with Mr. Trettel before I  
22 lose that opportunity.

23 MS. LUDTKE: If I could ask him a couple of  
24 questions. I have a few follow up questions.

1 Recross Examination by Ms. Ludtke

2 Q. Mr. Trettel, Mr. Cannata asked you about the status of some  
3 studies that are being performed.

4 A. That's correct.

5 Q. And do you recall responding to a request made January 16th  
6 by Public Counsel relative to the status of your studies?  
7 Let me show you that response. It's a response that was --  
8 the Committee required the applicant to respond as a  
9 condition of getting a completeness determination in  
10 February, do you recall that?

11 A. I don't recall the exact language.

12 Q. Well, it's question number one on the response, it's made  
13 in February. Are you familiar with that?

14 A. Yes, I am.

15 Q. Now, if you could just go through for the record, Mr.  
16 Trettel, and indicate which studies that indicates have not  
17 been completed as of the date of this hearing?

18 A. Regarding "environmental"? There's a number of categories.

19 Q. No. All of the categories.

20 A. As of the date of this hearing?

21 Q. And if there have been other delays in getting the studies  
22 completed beyond the dates projected and that's if you  
23 could indicate whether those studies have been completed.

24 MR. KRUSE: Can he consult with the panel if

1 there are areas that he's not directly involved with?

2 MS. LUDTKE: Absolutely.

3 A. Okay. Regarding the environmental surveys it states  
4 "Wetland/habitat surveys performed to date." I'm reading  
5 off like a -- environmental surveys to be completed,  
6 wetlands/habitat surveys as permissible during December of  
7 '97 and tiniest species surveys appropriate windows during  
8 the 1997 as permissible by landowner access, and we've  
9 described that. Archeological surveys Phase 1-B, it says  
10 1997 field season as permissible and at the time of this,  
11 deer wintering area surveys, those have been completed.

12 Q. Why don't you turn back on the engineering surveys and list  
13 the number of engineering surveys and also the geotechnical  
14 surveys that have not been completed.

15 A. Do you just want me to read? I'm not sure --

16 Q. You can just read them.

17 A. I'll just read it, but I'm not saying that they haven't  
18 been completed.

19 Q. Just whatever is indicated in that.

20 A. Okay. SCADA design; cathodic protection investigation and  
21 design; electrical interference study; preparation of  
22 construction bid packages; geotechnical reconnaissance;  
23 that's been completed; geotechnical field investigations,  
24 that has been completed.

1 Q. And that is projected not to have been completed, correct?

2 A. It said 8-97, that's correct, but it has been on accessible  
3 areas and geotechnical reports and that could go all the  
4 way through to 10-97.

5 MR. EVANS: A final report which would not apply  
6 to the construction conditions, it would be sort of a summary of  
7 the supporting information that went in today.

8 Q. And in your draft construction conditions report, I'll  
9 refer you to the status report of the geotechnical studies  
10 that you indicated were complete.

11 A. To the best of my knowledge they were but I'd defer Brent  
12 Evans on that.

13 Q. Well, let me have you review this very quickly, because  
14 this would indicate to me that a number of them have not  
15 yet been completed.

16 A. Yes. This report indicates that some have not been  
17 completed, but I'm not sure what the status of these are as  
18 of today .

19 MS. SCHACHTER: Excuse me could Public Counsel  
20 clarify what are the two documents that you are referring to  
21 regarding incompleting studies?

22 MS. LUDTKE: Sure. The first document I referred  
23 to was a response that the applicant made to a letter of January  
24 16th that was made a condition of the completeness determination

1 that this Committee made in February. The second document that  
2 I referred to is a chart that is contained in the construction  
3 conditions report that was provided June 7th.

4 MR. RICHARDSON: It was provided to the FERC.

5 MS. LUDTKE: Yes and it was provided to us about  
6 that -- June 7th, sometime around then.

7 MS. SCHACHTER: Thank you.

8 Q. And there is also additional work that hasn't been done  
9 regarding residential site specific drawings as well, Mr.  
10 Trettel?

11 A. I believe there may be some still remaining.

12 Q. In fact, the entire southern portion, isn't that correct?

13 A. I do not know.

14 Q. And I believe Commissioner Geiger asked you about the  
15 acreage, clearing acreage in comparing the right-of-ways.  
16 Do you recall that question?

17 A. Yes.

18 Q. And I believe you responded that you would have more  
19 clearing on the south side, because you would be clearing  
20 40 or 50 feet on the Portland Pipeline right-of-way?

21 A. That's correct.

22 Q. Now, let me show you a diagram of right-of-ways that you  
23 provided to us and that was Attachment 2-A in the third set  
24 of data requests dated May 7, 1997 and there is only a

1 small portion listed on the Portland Pipeline but it shows  
2 a combined permanent easement width of 110 feet with an  
3 existing easement width of 100 feet and to me that would  
4 indicate that you would only be clearing an additional ten  
5 feet. If you could take a look at that?

6 A. Well, for one thing, this area isn't in the same area that  
7 we're talking about.

8 Q. Well, obviously that doesn't contain the area that we're  
9 talking about because that is not on your route and that  
10 right-of-way diagram refers to your route, isn't that  
11 correct?

12 A. That's correct. It shows the combined temporary easement  
13 width of 125 feet. That's the amount that would be cleared  
14 during construction. It says the existing utility  
15 right-of-way is 100 feet. Given this, in this particular  
16 area, it would be twenty-five feet of additional clearing.  
17 Portland Pipeline right-of-way varies in width. It varies  
18 anywhere from 90 to 100 feet. I'm not sure in this  
19 particular area listed we would have to do 25 feet of  
20 clearing.

21 Q. All right. So, in that area you would do 25 feet of  
22 clearing but through the Gorham South area you would have  
23 to do 50 feet of clearing.

24 A. That's what our estimate was, yes.

1 Q. And what field work and what criteria did you base your  
2 estimate on that you would actually have to do an  
3 additional 50 feet of clearing in the Gorham South pipeline  
4 area?

5 A. It was based on review of the aerial photography.

6 Q. It was not based on a specific field survey, was it?

7 A. No. It was not.

8 CHAIRMAN VARNEY: Any other questions?

9 MS. LUDTKE: I have one more.

10 Q. Mr. Trettel, you, in response to, I believe to another  
11 question that Mr. Cannata asked referred to the FERC study  
12 that had confirmed your route selection, correct?

13 A. That's correct.

14 Q. Now, doesn't the FERC have an adversarial process similar  
15 to this in terms of making certificate decisions?

16 A. I believe so.

17 Q. And as such, the applicant really is not at liberty to  
18 discuss matters such as what the FERC is doing with the  
19 FERC staff, correct?

20 A. I'm not sure what the question is.

21 Q. Well, the FERC limits its contacts, its direct contacts,  
22 with the applicant, because it perceives it as being in an  
23 adversarial setting, correct?

24 A. That's correct.

1                   MR. KRUSE: Excuse me. I would object to asking  
2 Mr. Trettel to describe what the FERC perceives. It's all right  
3 to talk about what he perceives but not what he perceives the  
4 FERC to perceive.

5 Q. Well, why don't I just ask this question. Mr. Trettel,  
6 when you testified about what the FERC did, did you  
7 actually know what FERC did or is that speculation?

8 A. I'm speculating.

9 Q. Okay. That's pure speculation?

10 A. Well, it's based on understanding of how FERC operates.

11 Q. You don't know though?

12 A. I can't say one hundred percent how they did their  
13 analysis.

14 Q. Do you know or is it speculation?

15 A. I don't know exactly.

16 Q. You have no actual knowledge, do you?

17 A. No.

18                   MS. LUDTKE: Thank you. I don't have anything  
19 further.

20                   CHAIRMAN VARNEY: Any other questions? Redirect.

21                                   REDIRECT EXAMINATION

22 By Mr. Kruse:

23 Q. Mr. Trettel, Public Counsel was taking you through, in her  
24 cross examination, an exercise of comparing the PNGTS

1 revision, which is now what we call the mustard line on the  
2 chart, with Gorham South and Shelburne and having you  
3 compare those three routes with the criteria that were  
4 listed in the resource report. Do you remember that  
5 exercise?

6 A. Yes.

7 Q. Was there any additional significant criteria relevant to  
8 that comparison that was missing from the exercise?

9 A. Yes.

10 Q. What was that additional significant criteria?

11 A. Basically the major river crossings and wetland crossings,  
12 which are significant issues with regard to the Corps of  
13 Engineers, as well as FERC.

14 Q. And why are the existence of river and water body crossings  
15 significant in this analysis of route?

16 A. There is known significant impacts, albeit temporary,  
17 associated with water body crossings and we attempt to  
18 minimize the amount of major water body crossings as much  
19 as possible.

20 Q. And comparing the amount of water body crossings with the  
21 three alternatives, which one, if any, is the clear winner?

22 A. The PNGTS route.

23 Q. And why is that?

24 A. Because it has no major water body crossings in this area.

1 Q. Are there clean water issues associated with water body  
2 crossings that need to be addressed?

3 A. Yes, there are.

4 Q. The water body information that you have to offer us, your  
5 view on the comparative analysis, is that information that  
6 would be available to the FERC? In other words, would the  
7 FERC be aware, to your knowledge, of the existence of the  
8 water bodies that you encounter crossing either by way of  
9 the Gorham South or the Shelburne routes?

10 A. Yes, they would.

11 MR. KRUSE: I have no further questions. Thank  
12 you.

13 CHAIRMAN VARNEY: Thank you. Follow-up?

14 Examination by Mr. Patch

15 Q. With regard to the water body crossings and the one that  
16 would cross near the ford in Gorham if the Gorham and  
17 Shelburne route were to be followed, did you look at the  
18 possibilities of diverting water there? As I remember it,  
19 there were a couple of ways in which the water could flow  
20 and on first flush it almost looked as though there would  
21 be a way to do it without having any water at the portion  
22 of the crossing that you were working on at any particular  
23 time, because of the islands in the middle and because of  
24 the ability to control the water from, I think, if not

1 immediately not very far above that particular crossing.

2 A. We considered that option. We did not get into any  
3 negotiations with the operator of the dam to discuss the  
4 feasibility of doing that.

5 Q. Doesn't it make it more feasible because of that particular  
6 configuration of the river and because of that ability to  
7 be able to control the water flow above there?

8 A. It seems that it would be, yes.

9 Q. So, it's better than if you just had a free flowing river  
10 there and no ability to be able to divert or control the  
11 water flow?

12 A. Yes, there would be a possibility to control the water  
13 flow, sure.

14 CHAIRMAN VARNEY: Other questions? Michael.

15 Examination by Mr. Cannata:

16 Q. Just as a clarification, Mr. Chairman. Mr Trettel, the  
17 redirect testimony that you just gave, you said, if I  
18 understood you correctly, the six analyses that the Counsel  
19 for the Public took us through did not include a  
20 significant river crossing data.

21 A. The Counsel for the Public went through the list of  
22 criteria that FERC uses in routing, the FERC and the Corps  
23 of Engineers, six of the criteria that they use, and all of  
24 those were primarily related to staying on the existing

1 corridors and not effecting -- I forget exactly what they  
2 all were, but they did not address the issue of water  
3 crossings.

4 Q. But the six analysrd for which we had ratings, 41, 45, 42,  
5 did include that data?

6 A. Yes.

7 CHAIRMAN VARNEY: Ed.

8 MR. SCHMIDT: Regarding the issue of regulating  
9 flow in the river when the water crossings are under  
10 construction, do you have any opinion on what the restrictions  
11 of the Fish and Wildlife or Fish and Game Department would be  
12 relative to that?

13 THE WITNESS: I do not.

14 CHAIRMAN VARNEY: Jeff.

15 MR. TAYLOR: I think this issue of water  
16 crossings is a very significant one, because it seems to be a  
17 major distinction for the routes north of the river and south of  
18 the river. Although you may not have had any direct contact  
19 with either Crown Vantage, or the Union Water Power Company, or  
20 Public Service, are you aware of any instances where utility  
21 lines have been placed across the river in this general area in  
22 the recent past? Did you look at other river crossings that  
23 have been undertaken. There have probably been a dozen in the  
24 last fifteen years?

1 THE WITNESS: I personally have not. I'm not  
2 sure if the engineering staff did or not.

3 CHAIRMAN VARNEY: They're here, ask them.

4 MR. TAYLOR: If you're not the right one to ask,  
5 then I address the question to anyone else and I believe that  
6 between sewer lines and water lines in Berlin and other lines  
7 going into and out of the mills, that the Union Water Power  
8 Company has in every instance cooperated in terms of controlling  
9 the flows. Are you aware of that?

10 THE WITNESS: I'm not.

11 CHAIRMAN VARNEY: Mr. Morgan.

12 MR. MORGAN: Our intention is for the  
13 Androscoggin River crossing north of Berlin is to do just that.  
14 We have not done that to date, but we will work with them and,  
15 you know, I'm not saying there is not a possibility that it  
16 could be done on the southern region. The distinction that the  
17 issue of the Androscoggin River crossings is the key issue in  
18 the distinguishing between the two routes, I think there are  
19 several other issues. The extra work space that is going to be  
20 required to cross Route 2, to cross the railroads, to cross  
21 Portland Pipeline there is significant impact to get to the  
22 point on the other side of the Portland Pipeline and then get  
23 back. There are several other issues that need to be taken into  
24 account and my testimony will talk to that effect too, so. But

1 as far as the dam, we fully intend to work with them on the  
2 northern crossing, above Berlin, and to see what we can do to  
3 help lower the flow levels.

4 CHAIRMAN VARNEY: Any other questions? Well.  
5 Thank you for your testimony, Mr. Trettel. We very much  
6 appreciate it.

7 I guess we might as well take a quick break. You need  
8 a break, right? You're great. Why don't we just take a five to  
9 ten minute break and then we'll continue.

10 (Recess)

11 CHAIRMAN VARNEY: Okay. In terms of the  
12 schedule, we're planing to continue working late this evening.  
13 The schedule is as follows: We'll continue on here with  
14 testimony until about six o'clock, take a half hour break for  
15 dinner and then continue until approximately 8:00 p.m. Our  
16 stenographer at that point in time will be suffering from total  
17 exhaustion and we'll give her the rest of the night off and then  
18 we will pick up again tomorrow morning. Does anyone have a  
19 problem with that schedule?

20 MR. ELLSWORTH: Where can we eat in half an hour?

21 CHAIRMAN VARNEY: We will have something  
22 delivered here.

23 MR. CANNATA: What time will we start in the  
24 morning, Mr. Chairman?

1                   CHAIRMAN VARNEY: I think we're probably going to  
2 need to start at nine again. Does that sound all right with  
3 everyone? In terms of the next witnesses we were planning on  
4 having Counsel for the Public have witnesses so that they could  
5 do their testimony and not have to come back tomorrow and then I  
6 just heard at the last minute that Mrs. Lamm also wanted to be  
7 able to return and there was an expression of interest  
8 apparently in having Mr. Evans respond to some of her issues.  
9 Have the counsels had a chance to discuss that?

10                   MR. KRUSE: No. I just responded to Cedric's  
11 inquiry about whether we would be doing anything more on Mr. and  
12 Mrs. Lamm's testimony and I think perhaps we will address an  
13 issue raised by one of the attachments to their prefile  
14 testimony.

15                   CHAIRMAN VARNEY: And schedule-wise, who wants to  
16 get home first?

17                   MR. KRUSE: My intent in that regard was to put  
18 Mr. Morgan on first to cover many issues -- well, he doesn't  
19 need on direct to cover many issues at all, but I expect he will  
20 be needed for inquiry by the Committee and other counsel and so  
21 I was interested in having him on next when our turn resumes.

22                   CHAIRMAN VARNEY: And Public Counsel had  
23 requested that you be allowed to put people on today who have  
24 been waiting?

1 MS. LUDTKE: Yes. We have several witnesses. We  
2 have a few witnesses from the Appalachian Mountain Club and we  
3 have Steve Cushing here from the Town of Newton and he will  
4 address some of the issues regarding the routing through the  
5 Town of Newton that were raised yesterday. We also have Haley  
6 and Aldrich here to go over the report that was submitted as  
7 part of their testimony. That's all we have and we don't plan  
8 on doing extensive direct examination on any of these witnesses.  
9 So, they could go very quickly.

10 So, what I would like to do is just put all these  
11 witnesses on at this point and I expect we will be able to  
12 finish fairly quickly if the cross examination is not extensive  
13 with those witnesses and then applicants can resume with their  
14 witnesses in whatever order they want to put the witnesses on.

15 CHAIRMAN VARNEY: How long would that take?

16 MS. LUDTKE: Our testimony?

17 CHAIRMAN VARNEY: Yes.

18 MS. LUDTKE: Well again, it's hard to predict  
19 because our direct examination is very short. The length will  
20 be devoted to cross examination. And again, that's something  
21 that's within the applicants control, not within our control. I  
22 would imagine the total direct examination of all of the  
23 witnesses that I just mentioned will be less than half an hour.

24 MR. KRUSE: I don't have any extensive cross

1 examination of the witnesses Leslie just identified. I suppose  
2 that can change depending upon what they did beyond just  
3 sponsoring their prefile, but that's my plan now, is that it  
4 would be in and out quickly.

5 CHAIRMAN VARNEY: Okay. Would you like to do  
6 that then? Does that sound acceptable to provide them an  
7 opportunity to testify and then they could head home?

8 MR. KRUSE: Yeah.

9 MS. LUDTKE: Right.

10 CHAIRMAN VARNEY: Thank you.

11 MR. RICHARDSON: Mr. Chairman, the first witness  
12 I would like to call is Mr. Carl Demrow from the Appalachian  
13 Mountain Club.

14 CARL DEMROW

15 Having been duly sworn by Mr. Richardson

16 Testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Richardson:

19 Q. Mr. Demrow, do you work for the Appalachian Mountain Club?

20 A. Yes.

21 Q. And in what capacity do you work for the Appalachian  
22 Mountain Club?

23 A. I'm the Director of Trails for the Appalachian Mountain  
24 Club.

1 Q. And could you describe the Appalachian Mountain Club and  
2 its activities for the Committee, please.

3 A. Sure. The AMC is a membership non-profit which was founded  
4 in 1876. We have about 70,000 members throughout the  
5 northeast. We are particularly active in Northern New  
6 Hampshire and the White Mountains and surrounding areas.

7 Q. And how are you active in this area? What does the AMC do  
8 in the State of New Hampshire?

9 A. We maintain about 350 miles of trails in the Northern New  
10 Hampshire Region. We have a chain of eight huts in the  
11 White Mountain National Forest in the Franconia Notch State  
12 Park that are fairly well known. We are also involved in  
13 other issues in the region, the northern forest issue,  
14 other environmental and conservation issues as well.

15 Q. Could you describe the AMC's involvement in the Portland  
16 Natural Gas Project?

17 A. Sure. We were originally contacted in I believe it was  
18 February of 1996 by the applicant, who requested to meet  
19 with us and discuss the proposal that they were putting  
20 forward. We shortly after meeting with them and discussing  
21 some of the issues we had with the original pipeline route,  
22 which went through Jefferson and Randolph, New Hampshire,  
23 we filed to become intervenors in the FERC process. Since  
24 then we we've had a number of sort of informal discussions

1 with members of the applicant's staff and just earlier this  
2 month we filed our comments to FERC on their draft DIS on  
3 June 9th.

4 Q. Could you show me those comments? Do you have them?

5 A. Sure. This is a copy of them right here.

6 Q. Now, Mr. Demrow, this is the letter that you filed with  
7 Counsel for the Public and also with the State Committee,  
8 is that right?

9 A. Yes, that's correct.

10 Q. And that's included in Counsel for the Public prefile  
11 testimony?

12 A. I'm sorry. I didn't understand that?

13 Q. That's included in Counsel for the Public's prefile  
14 testimony?

15 A. If you have a copy of that letter in there, then yes.

16 Q. That's the one I showed you twenty minutes ago.

17 A. Right.

18 Q. And that's a true and accurate statement?

19 A. Yes, to the best of my knowledge. I mean this is the same  
20 letter as I saw.

21 Q. Could you just briefly, one last question, could you  
22 contrast these impacts on the Appalachian Trail -- I mean  
23 upon the Appalachian Trail, the Gorham Route variations  
24 that have been discussed, as well as the applicants

1           proposal?

2                           MR. KRUSE: I'm sorry. I couldn't hear the  
3 question.

4                           MR. RICHARDSON: I asked him to contrast the  
5 impact on the Appalachian Trail of the two routes through  
6 Gorham, route variations and the PNGTS's revision.

7 A. I'd be happy to do that. I'd just like to state that most  
8 AMC's comments in the DEIS, on the DEIS, have not just to  
9 do with the Appalachian Trail, but also the issue of  
10 opening up a new corridor on the north side of the river.  
11 I think that the applicant's changes to -- we had at one  
12 point talked with them when it became clear late last fall  
13 that they were interested in going on the north side and we  
14 talked with them about possible mitigation for effects on  
15 the Appalachian Trail and noted that our concerns were  
16 largely surrounding that road walk on the Hogan Road in  
17 regard to trails issues and they appear to have come up  
18 with a proposal to mitigate that, but I would reiterate  
19 that that is just one portion of our concerns about the  
20 north side or the Shelburne alternative. Is that what it  
21 is being called?

22 Q. And those concerns are described in your letter, the one we  
23 referenced a minute ago?

24 A. Yes, they are.

1 MR. RICHARDSON: Thank you.

2 MR. KRUSE: Thank you. I have no questions,  
3 Mr. Demrow. Thank you, very much.

4 MR. IACOPINO: Can I ask one question? Attached  
5 to your documents in the Public Counsel's submission, you have  
6 something that is entitled Chapter 4-I. It starts off with  
7 "utility communication facilities". Is this one of your --

8 THE WITNESS: That's an APC document.

9 MR. RICHARDSON: Mr. Chairman, if I may address  
10 that. Originally the Appalachian Trail Conference was unable to  
11 attend the hearings on the dates they were scheduled and since  
12 that time the AMC was going to testify on behalf of both the  
13 agency and the AMC -- the ATC has a representative here today  
14 who will testify to that document.

15 THE WITNESS: Just for further information, the  
16 AMC is a member organization of ATC and we are the managing and  
17 maintaining club for the Appalachian Trail. That's part of this  
18 letter that you're looking at.

19 CHAIRMAN VARNEY: Yes.

20 MR. CARPENTER: Mr. Demrow, what would you  
21 characterize the Hogan Road as being? Would you consider it to  
22 be a logging road or a transport road or what?

23 THE WITNESS: Well, I think it depends on what's  
24 happening out there and whether or not there is cutting going

1 on. I think when there is cutting going on it's a transport  
2 road for logging trucks. When there isn't it's a very nice sort  
3 of a winding dirt road along the river. It can be very pleasant  
4 to drive, or bicycle, or walk.

5 MR. CARPENTER: Would you consider it a high  
6 traffic road?

7 THE WITNESS: Having spent a fair amount time out  
8 there, I would say that the traffic that is occurring out there  
9 when there is active logging going on could be, you know, a  
10 couple of trucks in an hour, but certainly not anything really  
11 busy.

12 MR. KRUSE: May I ask a follow-up question? Mr.  
13 Demrow, are you aware of the traffic associated with the mining  
14 operation that is there?

15 THE WITNESS: No. I wasn't. I know that there  
16 are some existing gravel pits up there. I think the traffic  
17 from that seems to be sporadic depending upon how often they're  
18 extracting gravel from the pits.

19 MR. KRUSE: What sort of vehicles do you know are  
20 used for that purpose?

21 THE WITNESS: I haven't seen anything other than  
22 dump trucks and logging trucks on that road. So, I would have  
23 to assume that the dump trucks are part of the gravel operation.

24 CHAIRMAN VARNEY: Other questions? Doug.

1 Examination by Mr. Patch:

2 Q. If I could ask you, in making the recommendation that you  
3 are to this Committee, have you taken into account the  
4 additional water crossings that would be required to  
5 accomodate the alternative route the Gorham.

6 A. Yes. To answer your question I say yes.

7 Q. Most of your people think of your club as being more  
8 concerned about hiking trails, but do you have concerns  
9 about water crossings?

10 A. Yes. We're certainly not just a hiking club, as I think  
11 the folks from Shelburne are well aware. Yeah, our  
12 conservation staffers looked at the issues around the water  
13 crossings and still felt that the Southern Route, I think  
14 it's called the Gorham alternative, now would be the better  
15 one. It sounds like there has been some change now with  
16 the idea of going through the golf course and I don't know  
17 what they would have to say about that.

18 Q. But in making the recommendation you weighed the potential  
19 impacts of doing the water crossings, the impacts that  
20 might be on the river and on the fish in the river and all  
21 of the related consequences of that?

22 A. Yes, most definitely.

23 Q. And still believe that it was appropriate for the route to  
24 be the Southern Route as we called it?

1 A. Yes.

2 CHAIRMAN VARNEY: Was Ken Kimball involved in  
3 that review?

4 THE WITNESS: I can't say for sure if he was or  
5 wasn't.

6 CHAIRMAN VARNEY: Michael.

7 MR. CANNATA: An additional question. Would the  
8 applicant's changes to the route on the north side of the river,  
9 as indicated as red lines, does your recommendation to this  
10 Committee change?

11 THE WITNESS: No. It doesn't.

12 CHAIRMAN VARNEY: Any other questions? Okay.  
13 Anything else? Thank you.

14 MR. RICHARDSON: Mr. Chairman, I'd like to call  
15 Mr. Horn as my next witness.

16 JOHN HORN

17 Having been duly sworn by Mr. Richardson

18 Testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Richardson:

21 Q. Mr. Horn, could you please state your name for the record.

22 A. John Tyler Horn.

23 Q. Could you describe the Appalachian Trail Conference for me?

24 A. Sure. The Appalachian Trail Conference is a non-profit

1 member driven group that manages the Appalachian Trail.  
2 The Appalachian Trail runs, probably most people are aware  
3 of this, but the Appalachian Trail runs from Georgia to  
4 Maine approximately this year 2,159 miles. It is the  
5 preeminent long distance hiking trail in the country and  
6 it's protected by the National Park Service as part of the  
7 national -- as a National Scenic Trail. In fact, it's the  
8 first National Scenic Trail in the country. ATC has been  
9 given management responsibility for the trail by the Park  
10 Service in a very unique cooperative agreement, where the  
11 Park Service maintains responsibility for certain aspects  
12 of trail management, like land acquisition, law  
13 enforcement, boundary compliance, but in terms of the day  
14 to day management of the trail and looking out for the  
15 interest of the trail community, the Appalachian Trail  
16 Conference has been delegated that responsibility by the  
17 Federal Government.

18 Q. Now, you said that the ATC or the National Park Service  
19 protects the trail. Could you describe how they do that?

20 A. Well, we do a lot of things. It's a membership and  
21 volunteer driven organization. We do a lot of work in  
22 terms of actually protecting the trail itself by doing  
23 construction on the tread way or upon the shelters but we  
24 also have a very active program to try and protect it from

1 outside encroachments mostly in terms of development, but  
2 also such issues as utility crossing, timber harvesting,  
3 second home development, road crossings, things of that  
4 sort.

5 Q. Now, why are those issues significant to the Appalachian  
6 Trail Conference, such as utility crossings?

7 A. The Appalachian Trail Conference has taken a position that  
8 the trail is primarily viewed as a wilderness resource and  
9 an outdoor recreation area. It is in part a place for  
10 people to go and quote-unquote "get away from it all," get  
11 away from the trappings of civilization for a short time.  
12 It happens to go through some very heavily populated parts  
13 of the country, in which case we have a lot of conflicting  
14 uses and we take a very avid stance that we try and protect  
15 the trail as a haven for people on -- in this part of the  
16 country and also for people who are interested in a long  
17 distance outdoor recreation experience.

18 Q. Do you have any idea how many people use the trail a year?

19 A. It's a very hard thing to judge. It's a national park that  
20 runs 2,159 miles, like I said, so people can get on or off  
21 in literally thousands of points. There are estimates of  
22 well over a million people but that's over the whole length  
23 on an annual basis. It's really hard to say but certainly  
24 in this particular section of trail that we're talking

1           about, thousands per year.

2    Q.    Now, the ATC has filed a position with respect to this  
3           pipeline?

4    A.    Correct.

5    Q.    Do you have a copy of that?

6    A.    I do.

7    Q.    Is that a true and accurate statement as far as you're  
8           aware?

9    A.    Yes.  It was written by Kevin Peterson, who is a fellow who  
10           is the New England Regional Coordinator for ATC.  He's my  
11           immediate supervisor and I've read it and to the best of my  
12           knowledge it's true.

13                   MR. RICHARDSON:  Thank you.  No further  
14           questions.

15                   CHAIRMAN VARNEY:  Questions?

16    Examination by Mr. Bryce:

17                   MR. BRYCE:  Yeah attached to the letter that I  
18           think you're referring to, dated June 9th, was utilities and  
19           communications facilities guidelines.

20    A.    Yes.

21    Q.    And in that -- So, your familiar with what I'm talking  
22           about?

23    A.    Yes.

24    Q.    In that it refers to the fact that the National Park

1 Service is developing guidelines for utility crossings that  
2 are unavoidable. Do you know if those guidelines have been  
3 developed yet and are available, does that -- that was  
4 February 1997 when these were revised, the last date.

5 A. Yes.

6 Q. Do you know the status of those?

7 A. I do not. Don Owen, who I believe has also written  
8 commentary for this utility review process would be the  
9 fellow to contact about National Park Service guidelines.

10 Q. So, you haven't seen them? They haven't come across your  
11 desk or anything recently or -- that you're aware of?

12 A. Not that I'm aware of.

13 Q. Okay. Another question, would you -- you've -- have you  
14 been to the site at all? Do you know the site very well?

15 A. I don't know the site well. I have never been to the  
16 specific site. I do know the mountains immediately  
17 surrounding it and that many of our concerns were with the  
18 view shed from the southern Mahoosuc and the northern part  
19 of Moriah Range, but I have not been to the Hogan Road  
20 site.

21 Q. Okay. Because I'm trying -- there are some -- in trying to  
22 get a handle around the impact of that route on the trail  
23 itself, I was looking at some of the criteria and one of  
24 the them is locating at a site where the Appalachian Trail

1 crosses areas that are already developed and I was  
2 wondering the degree to which the corridor is not, you  
3 know, way back in the woods; it's within what 50 or 150  
4 feet of the existing Hogan Road, and the degree to which  
5 that -- I was wondering how much weight is placed on that  
6 particular sort of factor or is the key issue the fact that  
7 the corridor is visible from a further distance?

8 A. Well, there's two key issues -- well, there's three main  
9 issues as I see it. Two of them are what you have  
10 addressed. The first being another swath through the woods  
11 next to the Hogan Road. My understanding is that it would  
12 be about 75 feet between the edge of the Hogan Road and the  
13 edge of the utility corridor. What we would like to see is  
14 not having another swath cut. Primarily there are already  
15 over two hundred utilities that cross the Appalachian  
16 Trail. We try and consolidate crossings to single areas  
17 and this represents a new crossing. Certainly if in -- for  
18 example, I believe that the original proposal had a  
19 crossing in Randolph and it was crossing on a road and  
20 there wasn't -- there isn't as much of a problem with that  
21 because it's developing an already developed area. We do  
22 have a problem with another swath being cut through the  
23 woods in that it just does that much more to diminish the  
24 wilderness experience and the remote feeling of the

1           Appalachian Trail.

2    Q.    One more.  One more question.  When you're evaluating  
3           these, when the Conference is evaluating these criteria up  
4           and down -- for the length of the trail do you give a lot  
5           of difference in weight between underground utilities and  
6           overground utilities or do you just treat them pretty much  
7           the same?

8    A.    We treat them the same.  They're lumped in under a utility  
9           chapter in this book, which is the local management plan,  
10           which is what the document -- it is a section of this that  
11           you have in front of you and our feeling is that there are  
12           different levels of a wilderness experience, but anything  
13           where you are opening a man made clearing is going to  
14           clearly diminish that kind of experience and I suppose you  
15           can nitpick about, you know, high voltage lines versus  
16           underground but the bottom line for us is that it is  
17           another swath cut through the woods that detracts from the  
18           kind of remote wilderness feel the Appalachian Trail is  
19           really trying to create.

20                       MR. BRYCE:  Thank you, very much.

21                       CHAIRMAN VARNEY:  Mr. Kruse.

22                                       CROSS EXAMINATION

23    By Mr. Kruse:

24    Q.    Mr. Horn, did you participate in the preparation of this

1 report that you're offering today.

2 A. I did not directly. I have reviewed it but did I not  
3 participate in preparing it.

4 Q. Nor in reviewing the underlying criteria that were applied,  
5 if any, to the conclusions reached?

6 A. No. I haven't. I'm a fairly new member of the Appalachian  
7 Trail Conference.

8 Q. As a delegate or delegatee of the federal agency in your  
9 role as an entity to the manage the Appalachian Trail,  
10 would you defer to the United States government if its view  
11 it different from you in the preferred route of the  
12 utility?

13 A. We're famous for cooperative management and we try and  
14 reach consensus on all kinds of issues. Certainly this  
15 would be another issue where we're trying to reach  
16 consensus, but we are more closely aliened with the Park  
17 Service, in terms of their interest, than we are with other  
18 federal agencies.

19 Q. Would your group's consideration of the impact differ if  
20 you were aware that the proposed right-of-way would be less  
21 than 75 feet wide?

22 A. We'd be interested in working with whomever was interested  
23 in mitigating impacts. Less is better, but we still have  
24 some very fundamental concerns about having a new swath cut

1 through the woods in terms of what it does to the views  
2 from the peaks on the Appalachian Trail, but the smaller  
3 the clearing the better, if we have to have a clearing.

4 Q. And I gather that a major part of, as you've described it,  
5 in the spirit of cooperation a major part of your thrust is  
6 to devise on a cooperative basis some sort of mitigation  
7 factors or measures, correct?

8 A. Well, we're interested in not having the utility cross the  
9 trail at this site. That's what we would like to see  
10 happen. We would like to see the south alternative taken.  
11 If we are forced to deal with the utility corridor going  
12 through Shelburne on the north side of the Adroscoggin, we  
13 would certainly want to play a role in whatever mitigation  
14 would go on to try and protect the trail.

15 Q. Are you aware that the south Gorham alternative would cross  
16 the Appalachian Trail?

17 A. I am. I'm not exactly positive of some of the details of  
18 that. Unfortunately, I was not in on the long haul of this  
19 project, but have been sort of brought up to speed rather  
20 quickly on it.

21 Q. I appreciate your position. So, you would have similar  
22 concerns to analyze and try to deal with with regard to the  
23 crossing if there were to be the route along the south  
24 Gorham revision, correct?

1 A. We would want to be involved in any crossing.

2 MR. KRUSE: Thank you very much.

3 THE WITNESS: Sure.

4 CHAIRMAN VARNEY: Yes.

5 Examination by Mr. Carpenter:

6 Q. Are you aware of the letter that has been filed with this  
7 Committee from the National Park Service?

8 A. My understanding is that Don Owen, who is an environmental  
9 protection specialist with the National Park Service  
10 Appalachian Trail Park Office, Harper Ferry, West Virginia  
11 has filed a letter. I'm not sure exactly to whom or when  
12 he filed it, but I believe that either he or Pam Underhill,  
13 who is the park manager, filed a letter.

14 Q. You're not aware of the contents of that letter then?

15 A. I can take a quick look through my file here and see if  
16 I've got a copy. I have a letter that I have in my file  
17 dated June 10 from Pam Underhill, who is the park manager  
18 to Robert Varney, Chairman of New Hampshire Energy Facility  
19 Site Evaluation Committee and it basically requests that  
20 the Southern Route be followed for many of the reasons that  
21 have already been outlined.

22 Q. Follow-up question is, you indicated you did not know the  
23 proposed crossing of the Gorham South Route and the  
24 Appalachian Trail?

1 A. I am not familiar with the details of that.

2 Q. If we indicated to you that it is on a Class V State  
3 Highway at a right angle to the proposed line, would that  
4 mitigate your concerns as compared to the crossing that is  
5 proposed on Hogan Road?

6 A. Yes. That's a much preferable situation for us.

7 CHAIRMAN VARNEY: Michael.

8 Examination by Mr. Cannata:

9 Q. Are you aware of the proposed mitigated changes proposed by  
10 the applicant on their proposed route as indicated on the  
11 map behind you?

12 A. I got caught up on it during the coffee break, but I have  
13 not seen the details of it, other than just simply to look  
14 at the map here.

15 Q. In general do those changes, those mitigative efforts,  
16 satisfy your concerns?

17 A. They address some of our concerns. We still have the  
18 concerns about what it does to the view shed of the area  
19 and we also have some concerns about a cooperative  
20 management agreement we had, that has since expired, with  
21 the State of New Hampshire in regard to the Appalachian  
22 Trail and state lands and not having any development within  
23 1,000 feet of the trail. Unfortunately, that has expired  
24 but we have an agreement signed by DRED from 1987 that

1 provides a 1,000 foot protection zone for the trail and  
2 that this would be, you know, something in violation to  
3 that, because this is in the Ledville State Forest,  
4 Leadmine State Forest.

5 CHAIRMAN VARNEY: Bruce.

6 Examination by Mr. Ellsworth

7 Q. Mr. Horn, I'm looking at the utility and communications  
8 facilities chapter the accompanied the letter that came to  
9 the Site Committee.

10 A. Yep.

11 Q. And in it there are a series of principles and guiding  
12 policies that your club appears to be enforcing. Are there  
13 any principles in addition to those you have already stated  
14 that you see being specifically violated if the Northern  
15 Route is chosen?

16 A. The ones I've stated are the main problems that we have;  
17 the view, the additional corridor cut and what that does to  
18 diminishing a wilderness experience, and then also the fact  
19 that it's happening in a state forest, which for us has  
20 always been an allied lands that have been protected in  
21 terms of trying to maintain the corridor for the  
22 Appalachian Trail.

23 Q. You have a couple of -- you have club policies for each of  
24 your jurisdictions and there are a couple specifically

1 mentioned for the northern New England club and I assume  
2 that is us?

3 A. This particular section is managed on the local level by  
4 the organization that Carl Demrow is a part of, who just  
5 testified, the Appalachian Mountain Club. The way we have  
6 structured the management is that each local section is  
7 managed by a local hiking club and we are sort of the  
8 parent organization. So, the White Mountain Management  
9 Plan will have been written by the Appalachian Mountain  
10 Club and submitted to ATC for approval.

11 Q. Well, I'm looking at two of your principles, one within the  
12 White Mountains National Forest, which I think would apply  
13 if the Southern Route is accepted. You say or your own  
14 rules claim that "Proposals must go through an  
15 environmental analysis review with public and other agency  
16 participation." Would you consider this forum to satisfy  
17 that or would there be additional reports or studies that  
18 we should expect from you?

19 A. If the utility is crossing trail -- the trail on Forest  
20 Service lands then the federal process will be handled by  
21 the Forest Service and the Park Service works in  
22 conjunction with the Forest Service in the White Mountain  
23 and Green Mountain National Forest and so those issues  
24 would be handled by the Forest Service and I think that

1           whatever the Forest Service came to a determination with  
2           would be acceptable to us, hopefully with our input.

3    Q.    And off the White Mountain National Forest your club policy  
4           is that, "Proposals must receive appropriate review from  
5           AMC, ATC, MPC and other appropriate land managers, state  
6           and federal agencies."  And I ask the same question, do you  
7           consider that this forum satisfies those requirements or  
8           should we expect additional studies from your organization  
9           if the Northern Route is chosen?

10   A.   My understanding is that this organization or this set of  
11          hearings and the FERC decisions are basically the last  
12          word.  We have been asked to give input to both  
13          organizations and we have, but in any additional review, I  
14          don't think we have the authority to authorize, nor do I  
15          think we are interested in doing so.

16                   MR. ELLSWORTH:  Thank you.

17                   MR. CANNATA:  Clarification question.  This may  
18          be my hearing you incorrectly.  You mentioned you had an  
19          agreement with DRED preventing construction within 1000 feet of  
20          the trail, is that expired or is it still in force?  I thought I  
21          heard both.

22                   THE WITNESS:  It's an agreement from 1987 and it  
23          was meant to run for five years and it's never been renewed, but  
24          for all intents and purposes I think the spirit of that document

1 is still in force, even if the five year period has expired. We  
2 haven't had any meetings with DRED to indicate otherwise, but  
3 the document that I had a copy of was signed specifically for a  
4 five year period in 1987.

5 CHAIRMAN VARNEY: Anything else? Thank you.

6 THE WITNESS: Thank you.

7 MR. RICHARDSON: Mr. Chairman the next witness I  
8 would like to call is Mr. Steve Cushing.

9 Mr. Cushing, could you please state and spell your  
10 name.

11 MR. CUSHING: Yes. Stephen Cushing with a P-H on  
12 the Stephen and a C-U-S-H-I-N-G.

13 STEPHEN CUSHING

14 Having been duly sworn by Mr. Richardson

15 Testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Richardson

18 Q. Thank you. I'd like to have you start by just describing  
19 the Town of Newton Conservation Commission and how the  
20 Commission became involved in the project?

21 A. I'm the Chairman of the Newton Conservation Commission,  
22 which is a group of volunteers that are appointed by the  
23 selectmen and provided by state law to safeguard and manage  
24 the natural resources of the communities. We're funded by

1 town appropriated raises and appropriated funds, which are  
2 voted upon at town meeting. We became involved with the  
3 pipeline when it was originally two separate proposals by  
4 two different companies and have been heavily involved  
5 since then.

6 Q. And how is the Town of the Newton Conservation Commission  
7 staffed.

8 A. We have six full-time volunteers. Well, not full-full  
9 volunteers and three alternates. We have a part-time  
10 secretary.

11 Q. Okay. Now, you filed a statement with respect to this  
12 pipeline, actually several statements didn't you?

13 A. Yes, we have written a multitude of letters to every agency  
14 that has been involved with this.

15 Q. Now, I'd like to show you the most recent of those, to my  
16 knowledge, the --

17 A. What day is it?

18 Q. That's this letter here that's included with Counsel for  
19 the Public's --

20 A. Yes, that's what we filed as our prefile testimony.

21 Q. Now, is that a true and accurate statement, to the best of  
22 your knowledge?

23 A. Yes, it is.

24 Q. Now, you identified a number of issues in that statement.

1 I guess the first of them is -- concerns information  
2 available for the Town of Newton?

3 A. One of the concerns we had as a Commission was that all of  
4 the studies, both the FERC study and the applicants reports  
5 were based on data base searches and because there have  
6 been very little, if any, formal studies of anything,  
7 Newton flora, fauna, geological or otherwise. There is  
8 very limited mention of Newton in any data base. It's our  
9 opinion that the applicants took this absence of  
10 mentioning, absence of data, as an absence of impact. A  
11 specific instance of that is the Atlantic White Cedars. The  
12 applicants contacted the Natural Heritage Inventory, which  
13 had one stand of Atlantic White Cedar showing in Newton and  
14 there's actually two significant stands. We were aware of  
15 a second and I think the applicant has upgraded their  
16 application to reflect that, but that's an example of the  
17 type of thing.

18 Q. Now, with respect to the White Cedar you just mentioned,  
19 this isn't the first letter that addresses that is that?

20 A. No. That's correct. We've addressed that from the  
21 beginning.

22 Q. And has the pipeline company offered before to work with  
23 you on this?

24 A. We've never had any direct reply from the pipeline, either

1 as individual applicants or joint applicants. The only  
2 time that we've been acknowledged is when we've gone  
3 through the Counsel for the Public and they have formally  
4 submitted data requests.

5 Q. Just out of curiosity, over what period have you been  
6 involved in this project?

7 A. Approximately one year that we've been writing letters.

8 Q. You also had an issue with the Small Whorled Pegonia?

9 A. Well, we have the unique status of having the only Small  
10 Whorled Pegonia P-O-G-O-N-I-A, I think. This is an  
11 extremely rare native orchid. We knew that we had habitat  
12 that would support this plant, but we weren't aware that we  
13 had a species, an actual existing plant. We're concerned  
14 that because we have habitat and one's been found that  
15 there may be more and yet there doesn't seem to be an  
16 indication in the data that we have that there has been any  
17 specific surveys for them.

18 Q. And the -- you also had some concerns with additional  
19 temporary work spaces, is that right?

20 A. We have an inordinate, or what I feel is an inordinate  
21 amount of additional temporary work space in wetlands, not  
22 just we have a lot of additional temporary work space  
23 overall, but we have quite a few of the wetlands. It  
24 probably serves to understand this point; Newton is over

1 30% wetland. If it's not a hill it's a swamp in Newton.  
2 We're concerned that most of these additional temporary  
3 work spaces that are in wetlands are there as a convenience  
4 measure because they're adjacent to the paved roads and  
5 obviously easily accessible, you know, by heavy equipment,  
6 off loading pipe and so forth.

7 Q. There's also a concern with the abandonment of the six inch  
8 line, isn't there?

9 A. Yes, subsequent to some of the earlier research we've done  
10 on this, in fact, it was at the FERC hearing in Newton  
11 on -- it was in the first part of May -- end of May, May  
12 21st, I believe it was, that we learned that the existing  
13 six inch pipe is going to be abandoned in the site. We  
14 were unaware that this was going to happen originally.  
15 It's my understanding through contacts I've had with the  
16 Conservation Commission's vice-chairman, who was a senior  
17 environmental scientist with the New England Postal  
18 Service, that pipelines of this age were typically treated  
19 with an oil mist inside to prevent corrosion and that there  
20 have been documented cases in other parts of the country  
21 where this oil mist has contained polychlorinated biphenyl  
22 or PCP and we're concerned that this isn't addressed  
23 anywhere as to who is going to be responsible for this  
24 pipeline, the abandoned six inch line, or what its status

1 is as far as an environmental hazard.

2 Q. Now -- these concerns with the possible exception of the  
3 most recent, have they also been responded to by the  
4 pipeline company?

5 A. The only concern that we've gotten a response back is when  
6 it went from two proposals to a joint proposal, there was  
7 one area of extensive wetland that the route avoided.  
8 Other than that, we've had no response.

9 Q. And the final concern, I think, was the site that was going  
10 to be used, as the town's contemplating, as a library.  
11 Could you tell the Committee about that?

12 A. This is -- get your maps out. This is a complicated story.

13 Q. We can do that if you would like.

14 A. The initial individual applications became blended into the  
15 initial joint application part of the -- the first -- the  
16 first set of maps we got, which was the joint proposal, was  
17 a combination and the two individual proposals and a  
18 section that crosses a piece of town owned property that is  
19 under the management of the Conservation Commission, which  
20 is, as Justin's mentioned, is currently being considered as  
21 a site for a new public library.

22 Q. I have here the maps. Maybe you could help me identify  
23 which one and we could put it up on the easel board.

24 A. We're talking about sheets, the PTE sheets, 021 is the last

1 three digits on the sheet.

2 Q. Could you describe the area and describe why this site is  
3 important to the Town of Newton?

4 A. One of the aspects of this site that makes this very  
5 important is it's the only centrally located parcel of  
6 property in the Town the Newton that is owned by the town  
7 and also undeveloped, even though if you look at the map  
8 you'll see large undeveloped areas, these are all wetlands.  
9 In fact, this is one of the Atlantic White Cedar swamps,  
10 right in here. The site that we're talking about is this  
11 parcel of property right here. It's approximately seven  
12 acres.

13 MR. ELLSWORTH: For the record, sir, could you  
14 give us some numerical references on the map, please.

15 THE WITNESS: Yes, it's right by Wetland B-63.

16 MR. KRUSE: This is on which --

17 THE WITNESS: This is on sheet PTE T-14 5001-021.  
18 The Granite State Pipeline crosses this site now. It's an  
19 existing pipeline right-of-way across this site. Of the two  
20 individual proposals, the Portland gas line closely followed the  
21 existing right-of-way. The Maritimes proposal was more to the  
22 east and went sort of diagonally across the length of the  
23 property. In our initial response we indicated that we  
24 preferred the Portland route if it was possible for crossing

1 this site. When the first set of -- I'm sorry when the second  
2 set of joint proposal maps came out with all of the mile posts  
3 going in the same direction and everything, the route that was  
4 shown was the Maritimes route for this section. In our response  
5 to the first joint application we asked that the applicants  
6 consider using the Portland alignment for this section. That  
7 request went through the Counsel for the Public and in the joint  
8 applicants response to that, the narrative in there describes  
9 that they are using the Portland alignment, but it sites a  
10 different map number and if you lay out all of the original maps  
11 and take all the letters and sort out all of the data, it  
12 actually turns out that the narrative is talking about the first  
13 joint set of maps, the wrong proposed route on the first set of  
14 maps and not the right proposal on the second set. Believe me,  
15 I spent an evening sorting this out. I'm an expert on that few  
16 hundred feet of pipeline. I'm under the understanding that  
17 Mr. Mitchell has had informal conversations with Mr. Pfundstein  
18 and they are planning or have agreed in theory to make some kind  
19 of a change in here. I don't have any official word or I  
20 haven't been contacted by the pipeline at all on this. We  
21 offered a second alternative that would shift this further to  
22 the west and would go on the other side of a small wetland there  
23 and we never got a response on that either.

24 Q. Now, you've looked at the wetland impacts of both of those

1 routes I assume?

2 A. Yes, that's correct.

3 Q. And what do you have to comment on?

4 A. The wetland impacts end up pretty much a wash. If they  
5 follow the existing pipeline there might be slightly less  
6 wetland impact.

7 Q. So, one might be a 41 and the other might be a 42 or a 40?

8 A. That's a possibility. The other issue is that there are --  
9 this is sort of getting on the verge of the Conservation  
10 Commission's jurisdiction, but the route as it is show on  
11 this map, which is currently, as far as I know, the  
12 proposed route, has a tremendous impact on three homes. It  
13 goes right between two houses and along a house that sets  
14 further in the back. If the route is moved either to the  
15 existing pipeline route it will have very little impact on  
16 two of those homes, almost no impact on two of those homes  
17 and minor impact on one of them and that's sort of a bonus.  
18 Plus, it would allow the Town to retain future development  
19 of this site if they do decide to go ahead and put a  
20 library there, but right now there is a Space Needs  
21 Committee studying the library. The library is too small  
22 we have now and there is no room for expansion and that's  
23 one of the things that is being considered.

24 Q. I have one last question for you. Why is it important to

1 have a library in the downtown section of Newton, as  
2 opposed to somewhere else in the town?

3 A. Well, this is one of the few sites that it's almost in the  
4 exact geographical center of Newton. Newton is sort of a  
5 spread out community. It doesn't really have a quaint New  
6 England town center, as many towns do. This is as close --  
7 this is within a two minute walk of town hall, stores.  
8 There's a pretty good concentration of population, one of  
9 the heaviest concentrations of population is within  
10 probably a quarter of a mile in all directions of this  
11 site. So, it's really an ideal centrally located site.  
12 Right now there aren't any other sites on the market that  
13 the Town could even begin to try to buy. Development is  
14 really hitting us hard to Southern New Hampshire.

15 MR. RICHARDSON: Okay. No further questions.

16 CHAIRMAN VARNEY: Mr. Kruse.

17 CROSS EXAMINATION

18 By Mr. Kruse:

19 Q. Mr. Cushing, I'm Jim Kruse and I represent PNGTS. During  
20 the course of your testimony I think you indicated that a  
21 line change of some sort had already been worked out?

22 A. I believe that there has been, you know, an agreement in  
23 philosophy between Mr. Pfundstein and Clay Mitchell, of the  
24 Rockingham Planning Commission. I'm not aware, other than

1 Mr. Mitchell has discussed it with me that he has had this  
2 conversation.

3 Q. And I understood that testimony, I thought earlier you had  
4 mentioned some other sort of change that had been made or  
5 accommodation had been made?

6 A. I think you may be thinking of when it went from two  
7 separate proposals to a joint proposal, one of our major  
8 concerns was eliminated.

9 Q. All right. So, what has emerged as the proposal now, as a  
10 joint proposal is better than what you were looking at  
11 before?

12 A. In most areas, yes, with the exception, this area is still  
13 a concern.

14 Q. Is the area we're talking about of concern because of the  
15 proposed library?

16 A. Well, we don't want to lose the potential development of  
17 this Town owned parcel if we can avoid it.

18 Q. Had plans for development of that parcel been on file or  
19 are any plans for development of that parcel on file now  
20 with the registry?

21 A. There aren't any formal plans, no.

22 Q. Had there been any plans on file earlier in the game when  
23 the proposal first came through?

24 A. There aren't any formal plans at all for this site.

1 Q. I'm just wondering what would be a matter of public record  
2 for somebody investigating or researching the area?

3 A. They would find that it was conservation land. It has been  
4 voted and it's actually designated as conservation land by  
5 the Town of Newton.

6 Q. Okay. Were you able to, through Public Counsel, present  
7 all the questions that you had at the time that you  
8 presented them to Public Counsel?

9 A. Yes, that's correct.

10 MR. KRUSE: Thanks, very much.

11 CHAIRMAN VARNEY: Bruce.

12 Examination by Mr. Ellsworth

13 MR. ELLSWORTH: Let me first ask the applicant  
14 whether or not the proposed line that is depicted on page 21 is  
15 currently the proposed line.

16 THE WITNESS: I guess what I would like to do is  
17 look at what you've got.

18 MR. ELLSWORTH: And I'm specifically interested  
19 only in the area that Mr. Cushing pointed to us as the vicinity  
20 of wetland B-63.

21 MR. MORGAN: The answer to his question is yes.  
22 The proposed line is depicted correctly on the lines. The line  
23 change that Chris Wilber had previously testified to and that  
24 may be what Mr. Cushing mentioned was the possibility of staying

1 along the Granite State Pipeline between the house and the  
2 existing pipeline and that's what's being evaluated right now.

3 MR. ELLSWORTH: Has a decision been made as to  
4 that?

5 MR. MORGAN: No, sir. It is still being  
6 evaluated right now.

7 Q. (Ellsworth) Mr. Cushing, if that modification is made, that  
8 which apparently you discussed with Mr. Mitchell --

9 A. That's correct.

10 Q. Does that satisfy the concerns of the Conservation  
11 Committee?

12 A. We would accept that as an acceptable alternative in this  
13 situation, yes. I mean, you know, ideally, like anyone  
14 else, we would prefer it, you know, a hundred miles away,  
15 but certainly that would be a reasonable -- that would be  
16 acceptable to us.

17 MR. ELLSWORTH: Thank you.

18 CHAIRMAN VARNEY: Further questions?

19 Examination by Mr. Patch:

20 Q. Would that address all of the Conservation Commissions  
21 concerns?

22 A. That would address our routing concerns.

23 Q. Do you have specific recommendations for this Committee.  
24 Do you have conditions that you would suggest or that you

1 would suggest to either this Committee or the FERC?

2 A. One condition that we had is that further to the south from  
3 this site the proposed route crosses the Town's  
4 recreational trail, our premier recreational trail, which  
5 is on a former railroad right-of-way and this is our only  
6 handicapped accessible trail and we're concerned that the  
7 pipeline crossing of this will create a barrier. We would  
8 like some sort of assurance that both the subgrade and the  
9 surface material as such, that this doesn't deteriorate to  
10 become a barrier in the future.

11 Q. Could I ask if you could just locate that for us and I ask  
12 if on page 21 there is an old railroad grade depicted.

13 A. Yes.

14 Q. Is that the crossing?

15 A. Yes, that's the crossing. Well, we are concerned about the  
16 extent of additional work spaces in wetlands. There are  
17 nine of them that we have asked in our prefile testimony  
18 that they be considered to be eliminated by this Committee.  
19 Some of those may prove to be necessary due to construction  
20 constraints but from our viewpoint I think that they could  
21 make utilization of additional temporary work space in  
22 upland areas, which there are several of in Newton and  
23 eliminate the ones in wetlands. That would eliminate about  
24 35,000 square feet of wetland impact in Newton. Newton is

1 really taking a pretty good hit with this. We have 6% of  
2 the Phase 1 route and we have about 28% of the impact as  
3 far as homes and 43% of the route in Newton is wetland.

4 MR. PATCH: Have you discussed that with the  
5 applicant?

6 THE WITNESS: We've sent letters with that in it  
7 to them, but we've never got any response on that. I mean it's  
8 been in our concerns that we've been mailing out all along.

9 MR. PATCH: Nobody has contacted you though to  
10 discuss the concerns?

11 THE WITNESS: We have had no contact whatsoever.

12 MR. ELLSWORTH: I might at this time remind the  
13 applicant that we read that testimony that I think you said 28%  
14 of the homes which -- within 25 feet --

15 THE WITNESS: Right, 25 feet.

16 MR. ELLSWORTH: -- pass within 25 feet are  
17 located in Newton and I would remind the applicant that  
18 yesterday Mr. Minkos commented that as a matter of policy you  
19 would maintain the pipeline 40 feet from each residence and so I  
20 would ask you to just keep that in mind as you look at the  
21 center line of this pipe through this town.

22 THE WITNESS: I think it's important that 25 feet  
23 is to the construction zone. I don't want to create the false  
24 impression that that's to the center line of the pipe.

1                   MR. ELLSWORTH: And my request yesterday was to  
2 the center line of the pipe.

3                   THE WITNESS: I don't know where the center line  
4 of the pipe is. It's not shown on the plans.

5                   CHAIRMAN VARNEY: Do you want to clarify on that?

6                   MR. KRUSE: Commissioner Ellsworth, I don't have  
7 a clear recollection of exactly what was said yesterday, you may  
8 be right, but I don't think that's what Mr. Minkos said.

9                   MR. ELLSWORTH: I'd ask you to review the  
10 transcript and if we are both wrong we can be corrected at the  
11 time.

12                   MR. KRUSE: Yes, sir. I know I remember the line  
13 of questioning and I remember his response as having to do with  
14 considering that. If he made that commitment sobeit. We'll  
15 have to check.

16                   MR. CANNATA: It would seem to be a simple matter  
17 maybe perhaps to address one area of concern here in terms of  
18 the recreational trail that's a railroad bed. Can the applicant  
19 commit that it will not be blockaded so that it will not be  
20 impaired in the future?

21                   MR. WILBER: Yes. Outside of maybe some  
22 temporary times during construction of the pipeline, the  
23 applicant has no intention to block the trail in any permanent  
24 fashion whatsoever.

1 MR. CANNATA: And is that acceptable,  
2 Mr. Cushing?

3 THE WITNESS: Well, we're not as concerned about  
4 blockage as we are about having the existing base, I mean it's a  
5 very stable base there now. It was a railroad track, so it has  
6 a, you know, a sub-base of gravel and the crushed cinder surface  
7 on it. We're concerned that it's restored to its original  
8 condition, not so much, you know, I don't expect them to put up  
9 a fence across it or anything, but we have asked for the sides  
10 to be blocked with rocks or something to prevent vehicles from  
11 getting onto the trail.

12 MR. CANNATA: Is that the intent of the applicant  
13 in terms of restoration?

14 MR. WILBER: Yes. The intent is to restore the  
15 existing conditions as near as practical, yes and we could  
16 obviously have monitoring conditions as well.

17 MR. CANNATA: And the concerns about the second  
18 White Cedar stand, there was evidence presented to the Committee  
19 earlier. Has that concern been addressed by the applicant.

20 THE WITNESS: I don't have any information that  
21 they've addressed it at all. There may have been testimony  
22 presented yesterday that I'm not aware of.

23 MR. CANNATA: Can we ask the applicant to expand  
24 on that.

1                   MR. TRETTEL: My name is Roger Trettel, as I  
2 testified earlier, we are aware of the two Atlantic White Cedar  
3 swamps in the town. The one was identified by Natural Heritage  
4 Inventory. The other was identified as part of our field  
5 surveys, our wetland field surveys. We have been -- we've had  
6 meetings in the field with New Hampshire DES. We've consulted  
7 with Natural Heritage Inventory. We've made a proposal  
8 regarding mitigating those areas, minimizing our clearing and  
9 restoring the areas and minimizing our permanent corridor and  
10 that proposed mitigation has been submitted to the DES and we  
11 are awaiting final approval on that.

12                   MR. CARLISLE: Would you have any problem  
13 providing that mitigation plan to the Town Conservation  
14 Commission for their review and comment?

15                   MR. TRETTEL: We would be glad to provide that to  
16 the town.

17                   CHAIRMAN VARNEY: Bruce.

18                   MR. ELLSWORTH: Mr. Chairman, I would like to get  
19 to the bottom of the communication issue and ask you, sir, to  
20 whom you addressed various correspondences about your concerns?  
21 Was it directly with a pipeline company or was it with  
22 Rockingham Planning Commission or the agencies?

23                   THE WITNESS: Our first concerns went out to  
24 James Grasso.

1 MS. PATTERSON: And he is --

2 THE WITNESS: Maritimes and Northeast Pipelines.  
3 The other concerns were addressed to Donald Pfundstein and  
4 Robert Cheney.

5 MR. KRUSE: And what was the date of that  
6 correspondence?

7 THE WITNESS: The 23rd of April, 1997. And they  
8 also were copied on our response to the draft Environmental  
9 Impact Statement, which addressed most of these issues.

10 MR. CANNATA: Thank you, very much.

11 CHAIRMAN VARNEY: Any other questions? Thank  
12 you.

13 THE WITNESS: Thank you.

14 CHAIRMAN VARNEY: We appreciate your coming in.

15 MR. RICHARDSON: Mr. Chairman, the next two  
16 witnesses I would like to call as a panel. They are Dan Dobbels  
17 and Rich Tesler -- I mean Dick Stulgis, thank you, Vince, from  
18 Haley & Aldrich.

19 MR. PFUNDSTEIN: Excuse me, Mr. Chairman. Excuse  
20 me, Justin. Yesterday, if I could interject here for a moment,  
21 yesterday when Commissioner Ellsworth was engaging in a series  
22 of questions of Mr. Minkos concerning areas, which I at that  
23 point interjected we would have more to say in terms of  
24 jurisdictional issues. I just wanted to put on the record

1 before we get into the direct examination of these gentlemen  
2 from Haley & Aldrich the fact that as far as the regulation of  
3 the safety of construction and operation of interstate gas  
4 pipelines, it is the position of the applicant that that is, as  
5 a matter of the federal law solely within the jurisdiction of  
6 the United States Department of Transportation. I just wanted  
7 it to be clear, that the record was clear, that as a matter of  
8 law that jurisdiction lies with somebody else. Having said  
9 that, I don't for a minute suggest that this Committee not  
10 listen to whatever these gentlemen and other individuals during  
11 the course of this proceeding have to say and hopefully when it  
12 is all said and done the issue never comes up again, but we just  
13 wanted to be clear that that record was made in this proceeding.  
14 And with that, Justin, I'll shut up and let you get on with your  
15 examination. Thanks.

16 MR. RICHARDSON: Mr. Chairman, I'd like to  
17 respond to the remarks of Mr. Pfundstein just briefly. I would  
18 like to note that this Committee has intervened in those  
19 proceedings with the Federal Energy Regulatory Commission and  
20 even in any case that area of law is preempted, this Committee  
21 clearly has the capacity to recommend different safety and  
22 construction procedures, which are federally preempted under the  
23 National Environmental Policy and other federal legislation.

24 CHAIRMAN VARNEY: Thank you.

1 STENOGRAPHER: Have them spell their names,  
2 please.

3 MR. RICHARDSON: Yes, I will.

4 Would you please state your names for the record.

5 MR. STULGIS: Richard P. Stulgis, S-T-U-L-G-I-S.

6 MR. DOBBELS: Daniel J. Dobbels, D-O-B-B-E-L-S.

7 MR. RICHARDSON: Would you both raise your right  
8 hand, please.

9 RICHARD P. STURGIS

10 DANIEL J. DOBBELS

11 Having been duly sworn by Mr. Richardson

12 Testified as follows:

13 Examination by Mr. Richardson:

14 Q. I guess I would like to begin with a little bit of a backup  
15 here for you. Could you tell me where you began in this  
16 process, what information you looked at and how Haley &  
17 Aldrich approached working with Counsel for the Public on  
18 this project?

19 A. (Stulgis) Well, we began our involvement in the project  
20 sometime in the late winter of this year and we were  
21 requested by Counsel for the Public to essentially perform  
22 a peer review, a peer geotechnical review of certain  
23 aspects of the project, including the major river  
24 crossings, blasting considerations throughout the project

1 area and at the tail end an evaluation of the Shelburne  
2 alternatives. The information that we reviewed since that  
3 time has been extensive and varied, consisting of a whole  
4 host of documentation, responses to Counsel for the  
5 Public's request for addition information and the best I  
6 can say, it's been extensive and varied in terms of the our  
7 review.

8 Q. Did you develop any requests throughout the process in  
9 working with Counsel for the Public?

10 A. (Stulgis) Yes. Based on our initial evaluation of  
11 information that we were provided, there were a number of  
12 questions that were raised in our minds relative to  
13 additional information and additional data and those  
14 questions were translated or formulated into requests for  
15 additional information from the applicants.

16 Q. And upon reviewing those responses, you've prepared a  
17 report, is that right?

18 A. That's correct.

19 Q. And I'd like to hand you a copy of this report. It has  
20 been previously submitted to the Committee in Counsel for  
21 the Public's prefile testimony. Is that report a true and  
22 accurate understanding and representation of your opinion  
23 of the project and the relative facts and other  
24 information?

- 1 A. (Stulgis) Yes, it is.
- 2 Q. Thank you. Now, I'd like to -- before turning you over to  
3 answer people's questions, I'd like to go over a few areas.  
4 The first is, we conducted -- you conducted an  
5 investigation of several different areas. Those were the  
6 river crossings, right?
- 7 A. (Stulgis) That's correct.
- 8 Q. And there was a site visit for that, wasn't there?
- 9 A. (Stulgis) Yes, during the period of the 14th and 15th of  
10 May, I believe, of this year we visited twelve of the major  
11 river crossing sites.
- 12 Q. Okay. Can you describe the Powwow River crossing for me.
- 13 A. (Stulgis) Well, it's a strange animal, in that the river  
14 channel proper is relatively narrow maybe in the order of  
15 20 feet or so. That channel location is in the middle of a  
16 wetland footprint, the wetland that leads to both sides of  
17 the pseudo channel, the so called channels basically are  
18 field extensive and are on the order of, I think, 1,000  
19 feet or so.
- 20 Q. Is the area of the proposed crossing, is that following an  
21 existing right-of-way?
- 22 A. (Stulgis) That's correct.
- 23 Q. And did you observe anything unusual in that right-of-way  
24 there?

- 1 A. (Stulgis) Well, in the vicinity of -- I'd say within  
2 several hundred feet of the channel proper of the Powwow  
3 River we observed an exposed section of the existing gas  
4 pipeline.
- 5 Q. And what did that look like?
- 6 A. (Stulgis) Basically it was in standing water along the  
7 former trench alignment of the pipe installation. The pipe  
8 was exposed probably below, I would say six inches of  
9 standing water.
- 10 Q. I'd also like to ask you about the field or site  
11 investigation you performed at the Piscataqua River. I'd  
12 like to address this question to Mr. Dobbels? Did you look  
13 at the additional temporary work space areas?
- 14 A. (Dobbels) Yeah. What we did is we took a look down where  
15 the alignment met land, looked. It was on the New  
16 Hampshire side that happened to be at the exit point,  
17 according to the most recent plans that we had. So we kind  
18 of looked near the exit point area just to take a look and  
19 see what the lay of the land was in that area.
- 20 Q. Okay. Now, where is the exit point in relation to existing  
21 features that are --
- 22 A. (Dobbels) The exit point, I think we looked at the station,  
23 it was about 300 feet from the railroad tracks and the  
24 railroad tracks are on an embankment that basically make up

1 the shoreline. So, on the order of 300 feet or so from the  
2 shoreline is where the exit point is.

3 Q. Okay. Now, did you observe anything in the additional  
4 temporary work space areas that was a concern to you?

5 A. (Dobbels) Well, whether it was a concern or not, there were  
6 actually two kinds of land forms that I observed. One was  
7 what I would call as a civil engineer a wetlands area, an  
8 area that looked kind of swampy to me and the other area  
9 was an uplands area kind of a wooded area.

10 Q. Now, the swampy area, was that wooded?

11 A. (Dobbels) To my recollection, it wasn't really wooded. It  
12 had, you know, grasses growing in it, but it wasn't wooded.

13 Q. Are you a wetlands expert?

14 A. (Dobbels) No, I'm not.

15 Q. Okay. Did this wetland look to you to be consistent with a  
16 tidal influenced area or --

17 A. (Dobbels) Yes, it did. Yeah. We saw a culvert there that  
18 kind of led us to believe that, you know, that the tidal  
19 action from the river could go in and out in that area.

20 Q. Now, that wetland area was within an additional temporary  
21 work space?

22 A. (Dobbels) To the best we could figure without taping, you  
23 know, we were looking at it from kind of afar, but it  
24 looked pretty obvious that it was going to be in a TWS.

1 Q. Maybe what I should do is give you an opportunity to point  
2 out where that area is.

3 MR. KRUSE: Excuse me. Are we still talking  
4 about the Powwow?

5 MR. RICHARDSON: No. This is the Piscataqua  
6 River.

7 MR. KRUSE: Oh, I'm sorry.

8 Q. Could you just show the area in question.

9 MR. PATCH: Can you give us a map number?

10 MR. RICHARDSON: This is map number  
11 PTE-T4150001-045.

12 A. (Dobbels) Yeah. I would say it's in this area right here.  
13 It looks like the railroad right-of-way that is shown on  
14 here. This is where the pipeline alignment crosses the  
15 railroad right-of-way and abuts the railroad embankment  
16 there.

17 Q. Is that this area, where there is an area of open  
18 vegetation, that you're talking about?

19 A. (Dobbels) Yeah. You can kind of see it over here.

20 Q. And could you -- is there a wetlands indication on the  
21 alignment sheet there?

22 A. (Dobbels) I'm not that familiar with this particular  
23 alignment sheet, but I don't see anything, any kind of  
24 different land form called out in that area, no.

1 Q. Do you see any other wetlands indications? For example --

2 A. (Dobbels) Yes, I see it now. There's a wetland indicated  
3 along the shoreline but there is no wetland indicated on  
4 the inboard of the railroad tracks.

5 MR. CANNATA: For orientation, which way is  
6 north?

7 MR. DOBBELS: North is up there.

8 Q. Have you reviewed any information since filing your report?

9 A. (Stulgis) Yes, we have.

10 Q. And what information do you have?

11 A. (Stulgis) There has been a series of various documentation  
12 that has kind of trickled in over the past several weeks  
13 since our report has been prepared.

14 Q. Did you have the opportunity to review the Piscataqua River  
15 Contingency Crossing Plan?

16 A. (Stulgis) Just sort of briefly.

17 Q. Could you comment briefly on that report based on your  
18 review?

19 A. (Stulgis) Well, again, I need to stress that it was a  
20 cursory review just completed recently. I guess the best  
21 way I could summarize it was that the level of detail  
22 included in that documentation, in our opinion, was, you  
23 know, substantially less than, you know, documentation --  
24 similar documentation provided for other river crossings on

1 the project.

2 MR. RICHARDSON: I have no further questions.

3 MS. GEIGER: Excuse me. Mr. Richardson, before  
4 you leave these two witnesses, are you asking that the Committee  
5 rely on them as experts?

6 MR. RICHARDSON: Yes, I am.

7 MS. GEIGER: Okay, in so relying, I think it  
8 would be helpful for us if you would qualify them as experts in  
9 terms of informing us of their qualifications, backgrounds, and  
10 experience, so we that can accord the appropriate weight to  
11 their testimony.

12 Q. Would you please outline your experience and qualifications  
13 for the Committee.

14 A. (Stulgis) Sure. Certainly. My background is I'm a  
15 graduate civil engineer with an undergraduate degree in  
16 civil engineering. I have a Masters Degree in Geotechnical  
17 Engineering from Purdue University. I've been practicing  
18 as a geotechnical engineer for almost twenty-nine years.  
19 In terms of the type of project that we're rendering our  
20 professional opinion on, my experience with these types of  
21 projects, linear pipeline type projects, goes back to my  
22 early career with Exxon Research and Engineering and I did  
23 some of the initial work for the Alaska pipeline Valdez  
24 terminal. Since that time I've been involved with projects

1           domestically in the United States, as well as oversees,  
2           sewer pipe projects, water transmission projects, oil  
3           pipeline projects. So, I'd say in my almost thirty years  
4           of geotechnical practice that, you know, I've worked on a  
5           number of, you know, similar linear type of, you know,  
6           pipeline transmission projects.

7    A.   (Dobbels) I graduated I with a BS in Civil Engineering from  
8           the University of Illinois in 1981, an MS from the same  
9           university in 1983. I've been practicing geotechnical  
10          engineering at Haley & Aldrich since 1983. PE,  
11          professional engineer in the State of New Hampshire.  
12          Worked on many linear type pipeline projects in the past.  
13          I've had a considerable amount of experience in rock  
14          mechanics and blasting issues. I worked on the Iroquois  
15          gas transmission line project as a blasting engineer.  
16          Recently, by "recently," in the past three or four years  
17          have been spending a lot of my time in various trenchless  
18          technologies of which horizontal directional drilling is  
19          one.

20                           MS. GEIGER: Thank you, very much.

21    Q.   I'll ask you and you can decide amongst yourselves who you  
22          would like to answer. Yesterday there was a statement by  
23          Mr. Trettel, I'll represent to you, on the effect that you  
24          recommended that sediment maps which should be used on

1           trenches where there was an open cut and Mr. Trettel  
2           indicated that he did not believe that this was that  
3           effective.  Could you discuss that recommendation for the  
4           Committee?

5    A.   (Dobbels)  Actually, what the sedimentation map was in the  
6           report is basically a reergatation of what was in the ACP,  
7           the ACP and the site specific plans for the Exeter River  
8           mentions the possible use of the sedimentation map and so  
9           we just kind of repeated that in our report as well.

10   Q.   And will --

11   A.   (Stulgis)  I think the reference to that measure in our  
12           report is included in kind of a general discussion of water  
13           crossings and mitigation measures and our intent was to in  
14           that general discussion basically state the -- I think the  
15           standard of practice of appropriate types of mitigation  
16           measures from an erosion control, siltation, sedimentation  
17           standpoint.  Our intent obviously, you know, it's a site  
18           specific situation and we would expect that, you know, the  
19           various types of general measures that we were suggesting  
20           in terms of the state of the practice would be applied in  
21           the field on an individual basis based on, you know, the  
22           actual site conditions during construction, so --

23                   MR. RICHARDSON:  I have no further questions.

24                   CHAIRMAN VARNEY:  Mr. Kruse.

## 1 CROSS EXAMINATION

2 By Mr. Kruse:

3 Q. I apologize for asking you questions to your back. May I  
4 assume that you found in the environment construction plan  
5 appropriate industry practices in terms of erosion control?

6 A. (Stulgis) As a general statement, yes.

7 Q. And have you had -- I gather from your report, at the time  
8 you wrote it, you had not yet had an opportunity to review  
9 the draft Construction Conditions Report of June of this  
10 year. Have you since had that opportunity?

11 A. (Dobbels) I have had an opportunity to make a cursory  
12 review of that report, yes.

13 MR. KRUSE: I have nothing further. Thank you.

14 MR. SCHMIDT: If I could ask one question of  
15 Mr. Stulgis. You observed that the existing gas pipeline had  
16 become exposed. Could you tell me what concerns you would have  
17 about such a situation from both a gas safety standpoint and  
18 also an environmental standpoint?

19 MR. STULGIS: (Stulgis) Well, I'm not a gas  
20 safety expert. But the first obvious thing that comes to mind  
21 is the fact that the pipe was exposed. It wasn't buried. It  
22 wasn't covered. So, the first, you know, concern would be, I  
23 would say, vandalism, where the pipe is basically accessible to  
24 anybody who essentially wanted to damage it, you know, per se.

1 I think that's probably the most significant observation I would  
2 make relative to that situation.

3 MR. SCHMIDT: And if I could just follow up, what  
4 would you suggest the company should do to avoid that kind of a  
5 situation at either that crossing or a different crossing.

6 MR. STULGIS: I don't think I really have a  
7 suggestion in that regard.

8 MR. SCHMIDT: Thank you.

9 CHAIRMAN VARNEY: Questions? Doug.

10 Examination by Mr. Patch:

11 Q. With regard to the alternatives that the Committee is  
12 looking at for the Shelburne area, I'm looking at page 3-2  
13 of your report on geotechnical peer review, and the first  
14 box at the top, you talk about the PNGTS preferred route  
15 and I assume by the "preferred route" I assume that you  
16 mean what we are now calling the "mustard route". And I  
17 could be wrong, but I guess it's my assumption that this  
18 box refers to the mustard route and not the red  
19 alternative?

20 A. (Stulgis) That's correct.

21 Q. Have you had a chance to review the latest alternative  
22 proposal that the Company has proposed?

23 A. (Stulgis) No, I have not.

24 Q. I guess I was just curious as to whether some of the things

1           that you've identified in this box would still be issues  
2           with the Company's latest proposal and in this box you had  
3           talked about glacial till soil as about being difficult to  
4           excavate and rock removal requiring drilling and blasting,  
5           although we've been told that there is still certainly some  
6           of that that's involved. Some of the issues that were  
7           there, I guess you have no way of knowing whether those are  
8           still issues because you haven't had a chance to look at  
9           their outline.

10    A.    (Stulgis) Well, I haven't studied the, you know, the  
11           revised alignment in detail.

12    Q.    In the second box on that page you talk about the river  
13           crossings that would be required for the alternate route  
14           that is being supported by the towns of the Gorham and  
15           Shelburne and the crossing at MP 67.50 is, I believe, THE  
16           same crossing that we talked about earlier that is at a  
17           ford in the river and essentially the same area where  
18           Public Service has a line crossing there, I believe, is  
19           that fair to say.

20    A.    (Dobbels) I believe that's true, yes.

21    Q.    And you note there that the flow of water can be controlled  
22           by dams and that the pipeline crossing could be a dry  
23           crossing essentially in that spot.

24    A.    (Stulgis) Certainly, and I need to get my mile post

1 straight here. At mile post 67.50 I believe that at times  
2 that river is dry enough where vehicles can actually  
3 ford -- ford the river. In fact there is a paved roadway  
4 that crosses the river. There are signs that warn, you  
5 know, of flash flooding in terms of the controls of the  
6 dam, you know, in terms of people attempting to cross the  
7 river in the dry condition.

8 MR. RICHARDSON: Mr. Chairman, I would just like  
9 to indicate that I'm showing the witnesses the photo sheet 19 of  
10 17, which is included as an exhibit in the photographs in the  
11 Maine volume of Public Counsel's prefile testimony.

12 Q. (Patch) On that same page you also note, however, that at  
13 that particular crossing there are significant construction  
14 constraints because of a steep riverbank. I don't know if  
15 you could elaborate on that?

16 A. (Stulgis) Well, I can. The topography and the geography is  
17 such that there is a steep riverbank right at the river and  
18 once you come up that river bank you have very little  
19 horizontal distance between the top of the riverbank and  
20 the edge of Route 16, so that the -- what we were trying to  
21 articulate was that with the crossing of the river, exiting  
22 the river, you then basically have to cross the highway and  
23 there has to be a transition essentially from the river  
24 crossing to either a jack crossing beneath the roadway or

1           some sort of possibly open cut. The bottom line is that  
2           the piece of real estate to essentially stage and execute  
3           those operations is limited.

4                   CHAIRMAN VARNEY: Any other questions? Ken.

5 Examination by Mr. Colburn:

6                   MR. COLBURN: Mr. Stulgis, on the same section  
7 that Commissioner Patch was speaking of, the steep slope refers  
8 to the departure at mile post 67 1/2, is that correct?

9 A. (Stulgis) That's correct.

10 Q. Did you make any similar assessments regarding mile post 69  
11 1/2, the Shelburne variations departure point? If you want  
12 to look at that.

13 A. (Stulgis) That's associated with the route that impacts the  
14 golf course.

15 Q. Yes.

16 A. (Stulgis) We did not look at that river crossing.

17 Q. So, no opinion on whether that would be a similar problem  
18 or whether it would not be?

19 A. (Stulgis) That's correct.

20 Q. Thank you. On the next page, which I believe is 3-3, of  
21 your report, I appreciated your comments regarding the  
22 matrix that was discussed earlier in the day and the fact  
23 that PNGTS has weighted each criteria equally. I have  
24 concerns about that as well, though I recognize the

1 difficulty one would run into in assigning relative values  
2 for each criteria. I do think you raise a good point  
3 though, particularly regarding those which are temporary,  
4 as opposed to permanent, perhaps not to receive a lighter  
5 weighting, rather than a heavier weighting. Were you able  
6 to model what the results would have been had your  
7 recommendations been employed on PNGTS's matrix?

8 A. (Stulgis) No, we have not.

9 Q. Would you have any qualitative general statement as to the  
10 impact of that were you to do it?

11 A. (Stulgis) That was not part of our scope of work and I  
12 really couldn't comment on that.

13 Q. Okay. Regarding the blasting, I noted that you reviewed  
14 approximately eleven miles of right-of-way have the  
15 potential to require blasting, I'm sorry this is on page  
16 2-1, in the southern section. Did you make any similar  
17 assessment in the northern section?

18 A. (Dobbels) No. Where that eleven miles came from is  
19 looking at tables that were in various documents that  
20 showed where rap was within 5 feet of the ground surface.  
21 I could find no such tables in the documents that I had for  
22 the northern section.

23 Q. It would be reasonable to assume that there would be a  
24 significant amount of that right-of-way that has the

1 potential for blasting in the North Country would it not?

2 A. (Dobbels) I guess it all depends on how you define  
3 significant, but yes, it's reasonable to assume there would  
4 be quite a bit of blasting for the northern section.

5 MR. COLBURN: No further questions.

6 CHAIRMAN VARNEY: Any other questions from the  
7 committee?

8 MS. LUDTKE: If I could follow-up on a few on  
9 redirect.

10 REDIRECT EXAMINATION

11 By Ms. Ludtke:

12 Q. Now, you testified that you were engaged to conduct a peer  
13 review. If you could elaborate on exactly what your view  
14 of peer review is entailing.

15 A. (Stulgis) Essentially, you know, based in our area of  
16 expertise evaluating the proposed applicants, you know,  
17 construction procedures proposed design, evaluating the  
18 investigations that were conducted to support those design  
19 recommendations or design plans in contract documents. And  
20 again, you know, evaluating that body of information from  
21 our perspective, our expertise, which is geotechnical  
22 engineering.

23 Q. And you were engaged to do this work in about January of  
24 this year?

- 1 A. (Stulgis) That's correct.
- 2 Q. And were you able to start right in on the work and conduct  
3 a peer review at that time?
- 4 A. (Stulgis) There was an awful -- there was a large amount of  
5 time that was spent just deciphering the available  
6 information, identifying the data gaps in the information,  
7 requesting additional information so that we could  
8 ultimately get to a position where we had a sufficient data  
9 base to make an evaluation.
- 10 Q. What data gaps were you able to identify in the information  
11 in January?
- 12 A. (Stulgis) From a subsurface investigation perspective,  
13 there was a lot of subsurface information on subsurface  
14 conditions that was lacking, that was not available at a  
15 number of the river crossings and it really was a gradual  
16 process of obtaining, you know, that type of information to  
17 the point where I said we were able to make our evaluation.
- 18 Q. So, a considerable amount of your effort was spent just  
19 trying to obtain information that would enable you to  
20 actually conduct a peer review of the substantive decisions  
21 that had been made?
- 22 A. (Stulgis) That is correct.
- 23 Q. And how much of your time would you estimate was spent  
24 trying to gather this information, so you could actually do

1 a peer review?

2 A. (Stulgis) This is difficult to put a number on, but I would  
3 say that easily, you know, through late winter-early  
4 spring, most of our efforts were directed at, you know,  
5 essentially gathering the information.

6 Q. So, that would have been January, February, March into  
7 April?

8 A. (Stulgis) That's correct.

9 Q. And the majority of your efforts were spent just trying to  
10 get information so you could start doing your work?

11 A. (Stulgis) That's correct.

12 Q. And when did you finally obtain the site specific  
13 information that you needed to evaluate the crossing  
14 methods?

15 A. (Stulgis) Well, I would say that it came in stages and  
16 really we were finalizing our evaluations as information  
17 was still coming in.

18 Q. So, even as of June when you filed the prefile testimony,  
19 there was information that would still be relevant to your  
20 peer review coming in at that time?

21 A. (Stulgis) That's correct.

22 Q. And in fact, you finalized your testimony before you had a  
23 chance to review the Construction Conditions Report?

24 A. (Stulgis) That is also correct.

- 1 Q. Now, what type of information is there in the Construction  
2 Conditions Report that might effect your peer review?
- 3 A. (Stulgis) Again, there was, again, I would say a  
4 quantification of the types of materials that the pipeline  
5 company expected to encounter with the trench excavations  
6 that would be -- I would made and assessment relative to,  
7 you know, rock excavation. There would be an indication  
8 of, you know, the types of materials that they would use  
9 to, you know, backfill the trenches. There would be an  
10 assessment, I think, of all borrowed materials that might  
11 be necessary to, you know, complete, you know, backfilling  
12 the project and, you know, some additional information on,  
13 you know, subsurface conditions.
- 14 Q. Your firm has been involved in numerous permitting  
15 projects, for example, on highways, is that correct?
- 16 A. (Stulgis) That's correct.
- 17 Q. Would it be industry practice or for an applicant to have  
18 this type of information that you're referring before a  
19 permit application was filed?
- 20 A. (Stulgis) In my opinion I think that would be the case.
- 21 Q. Have you seen all the information that you would expect  
22 someone to have before a permitting application was filed,  
23 at this point?
- 24 A. (Stulgis) Well, there certainly, again as we point out in

1           our report, there are certainly still some data gaps that  
2           exist and some recommendations that we've made for, you  
3           know, for obtaining that additional information.

4   Q.    So, even as of today the information is not as  
5           comprehensive as one might expect on a permitting?

6   A.    (Stulgis) Well, to answer that, I would say that it is not  
7           complete. There are, you know, portions of the project, as  
8           we've indicated, that the information that exists is  
9           certainly, you know, adequate. So, I would say, you know,  
10          that it varies, you know, depending upon, you know, the  
11          area of the project, but there certainly are data gaps in  
12          certain portions of the project.

13   Q.    And would a data gap be the gap that Mr. Dobbels referred  
14          to, and he can comment, on the blasting issues for the  
15          northern portion?

16   A.    (Dobbels) Yes. That's one of the data gaps that is in the  
17          Construction Conditions Report that we really didn't have a  
18          handle on before we had is the amount of blasting. There  
19          was also a couple of river crossings where we don't have  
20          any geotechnical data on there.

21   Q.    Can you recall right now what those river crossings would  
22          be?

23   A.    (Dobbels) We have no data on Simms, Upper Ammonoosuc, and  
24          Phillips River.

1 Q. And when you refer to no data on that, what do you mean "no  
2 data"?

3 A. (Dobbels) No test boring logs, no subsurface information,  
4 no reports. We have reports on the other crossing that  
5 described the cost and described the anticipated subsurface  
6 conditions and what not. So, the level of information on  
7 those crossings was not taken up at the same level as the  
8 other crossings.

9 Q. Why do you need that kind of information to evaluate a  
10 crossing methodology?

11 A. (Dobbels) An appropriate methodology depends to large  
12 extent on what the subsurface conditions are. You need it  
13 to -- as part of the -- it goes into the equation, if you  
14 will.

15 Q. So, in some sense your peer review of the recommended  
16 crossing methods on those rivers was somewhat compromised  
17 by the lack of information?

18 MR. KRUSE: Excuse me for interrupting, Mr.  
19 Chairman. We are dealing with another irregularity on how many  
20 people for Public Counsel examine their own witnesses, but aside  
21 from that, now we're getting into leading questions and I  
22 realize we're not dealing under technical rules, but it does  
23 seem to be going a bit far from normal type of inequity.

24 MS. LUTDKE: I'll rephrase the question if it --

1 Q. Mr. Dobbels, you testified that there were some data gaps  
2 in the report, do you recall that?

3 A. (Dobbels) Correct.

4 Q. Could you describe the data gaps specifically with respect  
5 to each area?

6 A. (Dobbels) I'm not sure if I know what you mean by "each  
7 area" but in terms of the three crossings that I described  
8 previously where we had no geotechnical data, what I meant  
9 is we had no test boring logs, no description of what the  
10 anticipated subsurface conditions would be, such that they  
11 were taken to the level of the other river crossings. So,  
12 in the context of giving -- looking at the same rationale  
13 and looking at the river crossings, those three obviously  
14 we couldn't look at them in the same way, because we didn't  
15 have the same amount of information.

16 Q. Well, when you do a peer review what do you want to do?  
17 What type of things do you want to be sure are in place  
18 when you do your peer review?

19 A. (Dobbels) Within the context of river crossings,  
20 consistency. You know, that's one of the things I guess  
21 you could look for is treating all crossings in a  
22 consistent manner.

23 Q. And did this lack of information impose any problems with  
24 respect to making consistency determinations on river

1 crossings?

2 A. (Dobbels) In terms of consistency determination, we  
3 concluded we didn't have the same information for each of  
4 the crossings and once you conclude that then you use the  
5 information at hand. For us, that was our site visits.  
6 So, we used that information and then we also made the  
7 recommendation that those data gaps be filled.

8 Q. Now, did you evaluate the crossing of the Powwow River?

9 A. (Dobbels) Yes, we did.

10 Q. And were you aware of the methodology selected by the  
11 applicant at the time you evaluated the proposed crossing?

12 A. (Dobbels) It was, to my knowledge, cut and cover, so yes.

13 Q. And was there any suggestion that the applicant was  
14 investigating a directional drill method for the Powwow  
15 River?

16 A. (Dobbels) Yes, there was a suggestion.

17 Q. And what were your recommendations with respect to the  
18 Powwow River crossing?

19 A. (Dobbels) The recommendations -- while I don't have them  
20 committed to memory, they were something along the lines of  
21 conduct additional investigations, subsurface  
22 investigations, the test borings, and continue to look at a  
23 horizontal directional drill alternate.

24 Q. Are you aware of any recommendations that FERC had made

- 1 with respect to the Powwow River?
- 2 A. (Dobbels) I don't recall a specific recommendation for the  
3 Powwow River, no.
- 4 Q. And do you know whether your recommendations accorded with  
5 the FERC's? You don't know?
- 6 A. (Dobbels) I don't know.
- 7 Q. Were any issues raised regarding scour? Did you raise any  
8 issues in your peer review regarding scour?
- 9 A. (Dobbels) I believe there was a question asked early on.  
10 I'm not sure what the question was, but it did have to do  
11 with scour, something along the lines of, you know, is  
12 there enough cover over the pipe to accomplish any possible  
13 scour.
- 14 Q. Well, what is scour? What concerns are posed with respect  
15 to scour?
- 16 A. (Dobbels) Scour, in my mind, what scour is as applies to a  
17 pipeline across a water body is during the course of time  
18 corrosive action from the flowing water eroding material  
19 away from the top of the pipeline.
- 20 Q. And in fact, during your site views you observed scour?
- 21 A. We observed an exposed pipeline. I don't have any opinion  
22 right now about why the pipeline was exposed.
- 23 Q. Based on your review of the Construction Conditions Report,  
24 do you have any other recommendations that you would like

1 to communicate to this Committee?

2 A. (Dobbels) Not at this time. It was a great first review.  
3 I think it's worthy of some study, some time to study and I  
4 just have not had the time to study it.

5 MS. LUTDKE: Nothing further.

6 CHAIRMAN VARNEY: Thank you. Any other  
7 questions?

8 Examination by Mr. Carpenter:

9 Q. Yes, with regard to the options in the Shelburne area, you  
10 have reviewed the PNGTS preferred route and one of your  
11 comments on page 3.2 of your report indicates that it was  
12 and there was extremely steep side slopes and difficult  
13 terrain. Did you do a similar evaluation of the alternate  
14 route and do you have any comments pertaining to side slope  
15 and steepness?

16 MR. TAYLOR: By the alternate route are we  
17 talking about the --

18 MR. CARPENTER: The Gorham route, Gorham South.

19 A. (Dobbels) We looked at the Gorham South Route on just a  
20 couple of exposures on existing right-of-ways. So,  
21 where we saw the Gorham South Route, we did not see side  
22 slopes.

23 MR. CARPENTER: How would you typify the sort of  
24 materials and slopes that you found on the Northern Route,

1 especially near the Reflection Pond area, right behind  
2 Reflection Pond?

3 A. (Dobbels) Our review of that alignment was somewhat  
4 limited. We did not go all the way down the alignment.  
5 I'm not quite sure of the total length of it. So you have  
6 to understand we did not view the entire alignment but what  
7 I saw are steep in some areas, very steep side hill cuts,  
8 was in my opinion were bedrock exposures. We also saw some  
9 relatively flat areas as well.

10 MR. CARPENTER: Thank you.

11 CHAIRMAN VARNEY: Any other questions?

12 RECROSS EXAMINATION

13 By Mr. Kruse:

14 Q. Sir, with respect to the -- you mentioned in the case of an  
15 application for construction for a highway one would  
16 typically have certain information in before the  
17 application was filed. Do you recall that testimony, sir?

18 A. (Stulgis) Yes, I do.

19 Q. What sort of information is it?

20 A. (Stulgis) I mean there's a whole environmental process to  
21 the EIS, various stages of every step and then every step  
22 of the way there is certain specific information that's  
23 expected and normally is provided at various milestones in  
24 that process and that's what I was eluding to.

- 1 Q. You're referring to a highway construction process?
- 2 A. (Stulgis) That's correct. That was the question I was  
3 asked.
- 4 Q. Okay. With respect to the Powwow, sir, do you concur with  
5 that the existence of boulders and cobbles encountered at  
6 depth in the test boring could cause cave-ins along the  
7 length of the drilled hole and -- well, I'm quoting your  
8 language and I guess what I want to say is with respect to  
9 that language, do you agree that suggests that it would be  
10 difficult, if not infeasible to have a directional drill of  
11 the Powwow?
- 12 A. (Dobbels) It suggests it could be difficult. It does not  
13 suggest on that data alone that it is infeasible in my  
14 mind.
- 15 Q. All right. But typically one of the things you have to  
16 watch out for in directional drills is cobbles and boulders  
17 isn't that correct?
- 18 A. (Dobbels) That's correct.
- 19 Q. Do you still hold the view, gentlemen, that in general the  
20 subsurface exploration programs conducted by the applicant  
21 are considered to be in conformance with the state of the  
22 practice?
- 23 A. (Stulgis) I would say that that's an accurate statement,  
24 with the exception of the data gaps that existed.

1 Q. Relating -- I think you identified the -- your perceived  
2 data gaps for Powwow, Simms, Upper Ammonoosuc and Philips  
3 correct?

4 A. That's correct.

5 Q. (Stulgis) With the exception of those, did you find the  
6 data assembled to be adequate?

7 A. (Dobbels) Adequate in terms of a peer review, yes.

8 Q. And with respect to the methods for crossing, gentlemen, do  
9 I understand that in your opinion in general the  
10 applicant's proposed methods for constructing river  
11 crossings with some minor modifications, which you  
12 discussed in your report reflect the current state of  
13 practice in the industry?

14 A. I believe that is what the report does say.

15 MR. KRUSE: Thank you very much.

16 CHAIRMAN VARNEY: Thank you. Any other  
17 questions? Thank you, gentlemen. It's now almost ten of six.

18 MR. PFUNDSTEIN: I'll check, Mr. Chairman.

19 CHAIRMAN VARNEY: I think we should break at this  
20 point.

21 MR. PFUNDSTEIN: It is yet to arrive. I'm  
22 confident that it must be in transit, Mr. Chairman.

23 CHAIRMAN VARNEY: Is someone watching the door by  
24 the way?

1 MR. PFUNDSTEIN: Actually, on second thought it  
2 may be piled up outside the door.

3 CHAIRMAN VARNEY: I think I saw the State  
4 Troopers.

5 (Recess)

6 CHAIRMAN VARNEY: Relative to the order of  
7 witnesses, Vince Iacopino, could you give us an update, please.

8 MR. IACOPINO: Yes, Mr. Chairman. The next  
9 witness that is going to be presented to the Committee is going  
10 to be Mr. Penney's prefile testimony. There is stipulation that  
11 that may be filed without cross examination and a red line copy  
12 of his testimony with some minor changes will be presented in  
13 the morning and the only question there is if any of the  
14 Committee members have any questions of him. If there are no  
15 questions for him then he would not come back tomorrow.

16 CHAIRMAN VARNEY: Just leave his pretrial  
17 testimony?

18 MR. IACOPINO: That's correct.

19 MR. CANNATA: Is that Mr. William Penney.

20 MR. IACOPINO: Yes.

21 MR. CANNATA: I do have a question for him.

22 MR. IACOPINO: Is that something we can take care  
23 of right this moment?

24 MR. CANNATA: It's very short.

1                   CHAIRMAN VARNEY: Do you want to swear him in and  
2 just have him answer questions?

3                   MR. IACOPINO: Sure.

4                                   WILLIAM PENNY

5                   Having been duly sworn by Mr. Iacopino

6                                   Testified as follows:

7                   MR. CANNATA: I didn't realize he was going to be  
8 on that quick. Give me a second to find what I want to ask him.  
9 For the record.

10                  MR. CHENEY: For the record, it's my  
11 understanding that Mr. Penny's direct testimony is being  
12 submitted by way of stipulation, minor changes from the  
13 testimony that he submitted in February will be provided and a  
14 red line copy to be presented to you tomorrow morning, minor  
15 changes to reflect changes in the numbers relating to the routes  
16 and the fact that Pen Energy would merge with Duke Power  
17 Company, the merger became effective June 18 and so Pen Energy  
18 is now Duke Energy, but we'll present all of that to you in the  
19 morning in red line version. Mr. Penney is available for  
20 questions by the Committee.

21                  MR. CANNATA: Mr. Penney, I just have just one  
22 area I would like to ask you a question or so on.

23 Examination by Mr. Cannata:

24 Q. Were you here yesterday when I asked Mr. Minkos whether the

1           representations made during the informational hearing were  
2           still valid?

3    A.    Representations by Mr. Minkos or myself?

4    Q.    Well, by -- I was directing that question to him and I'll  
5           direct that same question to you, but were you here when I  
6           directed that question to him?

7    A.    I do remember a question you asked of Mr. Minkos, but I  
8           don't actually recall it precisely.  So, if you could  
9           direct it to me again.

10   Q.    Is the representations made by Maritimes, which is now  
11           Maritimes-Portland, can they be relied on, because they  
12           were not sworn testimony at the time, they were just  
13           informational proceedings.  Could they be relied on by this  
14           Committee to be used in this proceeding?

15   A.    I would have to see the copy of the representation that  
16           you're referring to, the information.  Is this from a  
17           transcript or --

18   Q.    I'll have one that I'll read.  This is page 23 of December  
19           18, 1996 and I'll read the paragraph.

20   A.    I'm sorry.  Is that from the Newton informational meeting?

21   Q.    Exeter.

22   A.    Exeter, okay.

23   Q.    And this is part of a response by you, Mr. Penney, and  
24           quote, "As previously described by Commissioner Varney,

1 Maritimes and Northeast now has an application before the  
2 New Hampshire Site Evaluation Committee. Maritimes and  
3 Northeast intend to fully cooperate with the FCC and  
4 Counsel for the Public and is committed to working for the  
5 FCC process. Do you remember making that statement?

6 A. Yes, I do.

7 Q. And I assume that is your intention here today?

8 A. That is correct.

9 Q. And that would include any conditions that this Committee  
10 puts on any approvals it may give?

11 A. I would have to review the conditions before I could answer  
12 that question.

13 Q. Are you basically keeping the same caveat that Mr. Minkos  
14 put on his statement yesterday as far as jurisdiction?

15 A. I'm putting the caveat that I could not agree to a  
16 condition until I saw the condition and I think that would  
17 be difficult for me to do such. I'm not sure of the  
18 condition you're referring to precisely.

19 Q. There are no conditions right now.

20 A. Right.

21 Q. I'm just speaking of the process and any condition which  
22 may result. The Committee may request, you know, route,  
23 route changes or those types of things or construction  
24 changes.

1 A. You know, I'm not dodging your question but I have to be  
2 sincere with you that until I see what the condition  
3 precisely is, it's hard for me to agree to it up front, and  
4 commit my Company as well as the project to a condition  
5 that I'm not really sure I know what it is.

6 Q. But you are fully committed to the project?

7 A. We are committed to working with the FCC?

8 MR. CANNATA: Thank you.

9 CHAIRMAN VARNEY: Bruce.

10 Examination by Mr. Ellsworth:

11 Q. Mr. Penney, I'm looking at the file, the updated prefile  
12 direct testimony and I note that you will be the project  
13 manager for the M&N pipeline.

14 A. That is correct.

15 Q. Will you be -- to what extent will you involved in the  
16 construction of either pipeline?

17 A. We will have oversight responsibilities for the joint  
18 facilities that run through New Hampshire PNGTS will be  
19 taking the lead as the construction manager for the  
20 facilities.

21 Q. And I just wanted to focus on your responsibilities in  
22 oversight. Does that mean it will be your Company that  
23 will make the decision as to how the pipeline is  
24 constructed and then Portland will be responsible for the

1 construction or will Portland be responsible for how the  
2 project is to be constructed as well as constructing it?

3 A. What I would envision happening is we would get an  
4 agreement with Portland as to how the project will be  
5 constructed. Then a set of bid documents will be  
6 assembled, put together, put out to bid with both companies  
7 again agreeing on how that plan will be executed and then  
8 we would see PNGTS as being the lead to make certain that  
9 the documents are fully complied with and is constructed  
10 designed in the bid documents.

11 Q. Let's move forward now to a post construction era.

12 A. Okay.

13 Q. On the southern section only and I understand that your  
14 interest and involvement is only in the southern section?

15 A. That is correct.

16 Q. What presence, if any, will Maritimes have in New England  
17 generally or in New Hampshire specifically during the  
18 operation of that pipeline?

19 A. I would envision, although this has not been worked out  
20 between PNGTS and Maritimes, we are currently putting  
21 together the construction management and ownership and  
22 definitive agreements that develop how this relationship  
23 will all work but in my opinion, Maritimes will have at  
24 least one person on site at all times to give us assurances

1           that the construction as it is laid, that the documents  
2           are -- that the pipeline is being built as the documents  
3           have been agreed to.

4    Q.    And will there be a presence in New England for any state  
5           agency or customers or residents who have concerns about  
6           the pipeline or questions for the pipeline, so that there  
7           will be a communications opportunity between the two?  
8           Maybe I said that wrong. Will you have anybody in town  
9           that we can talk to if something goes wrong?

10   A.    Absolutely. Absolutely.

11   Q.    Okay. And will there be a permanent office of Maritimes  
12           established in New England, do you know?

13   A.    Yes, there will be.

14   Q.    Will there be a permanent office of Maritimes in New  
15           Hampshire, do you know?

16   A.    At this point in time I could not commit to that. I don't  
17           think we really formulated our operations plan, although  
18           Jeryl Mohn will be coming up as a witness later on, who is  
19           the president of M&N Operating Company and he may be in a  
20           better position to answer that question.

21                   MR. ELLSWORTH: Thank you.

22                   CHAIRMAN VARNEY: Susan.

23                   MS. GEIGER: Mr. Penney, did I understand you  
24           correctly in testifying that the plans, the formal plans have

1 not been finalized that reflect the relationship between  
2 Portland and Maritimes concerning this project.

3 THE WITNESS: Well, I should clarify that. There  
4 has been a general agreement as what parties will be responsible  
5 for what activities. What's taking place now is we're  
6 developing and we've had a number of meetings with Portland  
7 related to what we call the definitive agreements, there will be  
8 an ownership agreement, an operating agreement and a  
9 construction management agreement. Those are being developed as  
10 we speak and we hope to have some resolution within the next  
11 month or so of those agreements it clearly delineates  
12 responsibility as to who does what on the project.

13 CHAIRMAN VARNEY: Any other questions?

14 MR. IACOPINO: The next witness will be part of  
15 the panel, Mr. Morgan. There are no further stipulations. You  
16 may get one in the morning but we have none now.

17 MICHAEL MORGAN

18 Having been previously sworn

19 Testified as follows:

20 Examination by Mr. Kruse:

21 Q. Mr. Morgan you're already under oath, if you recall.

22 A. Yes.

23 Q. Your full name, please.

24 A. Michael T. Morgan.

- 1 Q. And what is your position in connection with this project?
- 2 A. I'm the field office manager in the Portland Maine field  
3 office.
- 4 Q. By whom are you employed?
- 5 A. I'm employed by El Paso Energy Corporation. Probably just  
6 called EPEC, I'll be saying that, so.
- 7 Q. Could you give us a very brief summary of your educational  
8 and professional background.
- 9 A. Yes. I have a two Bachelor of Science degrees, one in  
10 petroleum engineering from the University of Missouri at  
11 Rolla and one mechanical engineering degree from Arkansas  
12 State University.
- 13 Q. And your professional experience and background?
- 14 A. I worked for two years in the drilling operation business  
15 over at Texas Eastern in Houston in the Offshore Division  
16 and I have close to eight years in the natural gas pipeline  
17 business with Teneco, now El Paso.
- 18 Q. Where else have you been involved in construction of  
19 pipelines?
- 20 A. Well, I've been on several projects with -- I've been with  
21 liquid pipelines when I was with the Expiration Production  
22 Division of Texas Eastern and then natural gas pipelines in  
23 New York and Connecticut, and Massachusetts with Teneco.
- 24 Q. We've previously marked as Exhibit 10 the panel testimony

1 of Messrs. Auremma, Morgan, Trettel and Wilber, did you  
2 participate in preparing that testimony?

3 A. Yes, I did.

4 Q. And is it true and accurate to the best your knowledge?

5 A. Yes, it is.

6 Q. I gather there are a number of other people with whom you  
7 have worked directly in connection with putting together  
8 this project?

9 A. Yes, I have.

10 Q. I want to show you Exhibit 12 and have you describe or  
11 identify for us briefly the individuals with whom you have  
12 worked and describe their roles, other than, of course, it  
13 is people from NEA. Now, I'm showing you the applicants  
14 Exhibit 12 with the resumes. Just tell us in each case  
15 briefly what everyone has done and what their area of  
16 expertise is.

17 A. John Auriemma has been the project environmental  
18 coordinator out of Houston for El Paso Energy. Chris  
19 Wilber has been the right-of-way coordinator out of my  
20 office in Portland, Maine, handling all the agents and the  
21 field work. Ed Gonzales, we have begun working -- he's  
22 with Maritimes Northeast I began working with him after the  
23 agreement in December 1996 to have a joint pipeline. I  
24 would say he is kind of my counterpart from the standpoint

1 of overseeing the field activities. Bill Penney, he has  
2 worked with Ed Gonzales in a decision making role there.  
3 Buford Barr is a project engineer, equivalent to me. He  
4 works out of the Houston office though, for El Paso Energy.

5 Q. What role does he play in this project?

6 A. He has helped us from the standpoint of overall  
7 administrative and project controls, he oversees the  
8 engineering and environmental activities out of the Houston  
9 office and the reporting mechanisms. Mike Lloyd is the  
10 project engineer out of Houston. He specifically has been  
11 assigned to overseeing our engineering contractor, Wilbros  
12 Energy, out of -- or excuse me, Wilbros Engineers out of  
13 Tulsa, Oklahoma. Mike has overseen and handled the  
14 administrative role of decision making and transmittals of  
15 drawings and issues such as that. Bob Bouchard is the  
16 support environmental engineer that works with John  
17 Auriemma out of the Houston office. He has mostly been  
18 mostly working the laterals from an environmental  
19 standpoint, where John has been concentrating on the main  
20 line. Brent Evans is a consultant engineer that is here  
21 tonight and he's been working mostly out of the Houston  
22 office though. His area of expertise and input has been  
23 mostly from the geo-technical standpoint and detail design  
24 of river crossings. Pat Kilbride is also a Houston

1 engineer who has been working on our development of our  
2 sales meter station designs, as well as our SCADA and  
3 cathodic protection design. Then it gets into NEA. Tony  
4 Most is an engineer with Maritime of Northeast who has been  
5 working in the field with us out of their Hampton, New  
6 Hampshire office. He has been working closely with my  
7 field people that have been looking with route alignments,  
8 talking with landowners from a routing standpoint. And  
9 finally, John Flumerfelt, who has been our government and  
10 public relations support person and he has coordinated with  
11 us and we basically we support -- my office supports him  
12 from the standpoint of town meetings. We bring -- from an  
13 engineering, environmental and right-of-way standpoint. We  
14 support his efforts in meetings with the towns and  
15 agencies.

16 Q. Now, Mr. Morgan, there were some questions earlier in this  
17 proceeding about the Groveton lateral. Do you recall those  
18 inquiries?

19 A. Yes, I do.

20 Q. And I'll refer you to what we've marked as Exhibit 1-A. Is  
21 this the amendment to application?

22 A. Yes, it is.

23 Q. And does this represent the application for the northern  
24 route in its form as the revision?

1 A. Yes, sir.

2 Q. Okay. I want to refer you, if I could, to a couple of  
3 places in here, starting at page 3, and I have tabbed some  
4 of these pages in advance and what I'm looking for is for  
5 you to describe to the Committee briefly whether or not the  
6 Groveton lateral somehow has been incorporated in the  
7 revision application.

8 A. Yes, I guess I can just read from this page. First off, to  
9 my knowledge, when we were doing the survey work on the New  
10 Hampshire alternative or the revision. So called, it  
11 became apparent that we initially had a route that traveled  
12 from Lancaster all the way out to the Groveton Mill and  
13 with the change in the main line we had to develop a new  
14 route to get to the mill and so it was done at the same  
15 time as the survey was done. It states here, I'm reading  
16 from page 3-- of the -- "In addition to the new 73 mile  
17 mainline route, the PNGTS proposes to construct 37,064  
18 foot, approximately 0.71 miles natural gas pipeline  
19 interconnect lateral to serve Wausau Paper in Groveton, New  
20 Hampshire, hereafter referred to as the Groveton Lateral."  
21 And it goes on to describe the lateral and where it begins,  
22 at mile post 35.3 continuing into the Wausau plant  
23 facility.

24 Q. Are there subsequent references indicated there?

- 1 A. Under Section B "Location Information," it says, "In  
2 addition PNGTS proposes to construct approximately 0.71  
3 miles natural gas pipeline interconnect lateral to serve  
4 Wausau Paper in Groveton; Groveton, New Hampshire, referred  
5 to as the Groveton Lateral".
- 6 Q. Now, I'll refer you later on in the application under  
7 the -- under Appendix D and ask you if at Table D-2 there  
8 are wetlands identified as related to the proposed road to  
9 lateral?
- 10 A. Yes. There is a wetland -- our Table D-2 is a list of  
11 wetlands crossed by the revision. It is continued on page  
12 D-29 where it states that the wetlands beginning at mile  
13 post G, 0.05 and ending at mile post G.11 and G is a  
14 reference to the Groveton Lateral.
- 15 Q. What's the wetland number?
- 16 A. The wetland number is KKWL001.
- 17 Q. Now, I'd like you to come up to the table by the exhibit  
18 table and ask you to identify an alignment sheet bearing on  
19 the proposed Groveton Lateral?
- 20 A. Yes, alignment sheets PTE-T14-4000-1-32-B. The entire  
21 extent of the Groveton Lateral is depicted on that  
22 alignment sheet.
- 23 Q. Thank you. Has the Company similarly filed an application  
24 for approval of the Groveton Lateral with the FERC?

1 A. Yes, we have.

2 Q. Sir, there was some question raised, I think on cross  
3 examination of Mr. Truttel, regarding the possible and  
4 necessary use of additional temporary work space along  
5 Hogan Road under the Company's proposal for routing of that  
6 area. Could you elaborate, if you can, on what -- the  
7 extent to which additional temporary work space will be  
8 required.

9 A. Concerning specifically the Hogan Road area, obviously we  
10 understand the sensitivities that are going on over there  
11 and our recent mitigation plan that we proposed restricts  
12 our construction area even more. Doing this is in direct  
13 response to the issues raised, as well as from the FERC  
14 DEIS to look at minimizing work space and possibly using  
15 what is called stove pipe construction in certain areas as  
16 necessary. We have developed that plan and minimized the  
17 work space. The issue of possibly needing additional  
18 temporary work space for blasting or whatever, I mean I can  
19 say, I can stipulate to say we that we will not use  
20 additional temporary work space in this proposed area. The  
21 typical pipeline construction, when you're in rocky areas,  
22 we typically ask for an additional 15 or 25 feet for the  
23 twenty-five or for the blasting activities and wind rowing  
24 of rock. However, in this area we understand the

1 sensitivities and concerns and it will be a much slower  
2 operation to work through there. The rock will have to be  
3 hauled out to spoil. The entire process will have to be  
4 done in stages with a constrained work space. So, from the  
5 standpoint of Hogan Road, we do not anticipate along that  
6 stretch using any additional temporary work space other  
7 than what we've asked for in our mitigation plan.

8 Q. Now, Mr. Morgan, there was a question raised by the  
9 gentleman Haley & Aldrich with respect to whether or not  
10 there may be a wetland that wasn't accounted for in your  
11 alignment sheet regarding the crossing at Piscataqua. Can  
12 you respond to that, please?

13 A. The anticipated crossing for the Piscataqua River is a  
14 directional drill. We've been working with a lot of  
15 different ideas of trying to minimize the impact there,  
16 what side to drill from, what side to set up our drill  
17 stream on. We have issues on the Maine side as well as the  
18 New Hampshire side with the best possible scenario. I  
19 think what is anticipated now is we would set up with our  
20 directional drill on the main side and exit, drill under  
21 the river and exit on the New Hampshire side, thus putting  
22 our drill string on the New Hampshire side. We anticipate  
23 the exit point to be beyond the wetland area. So, we don't  
24 anticipate impact in that with our additional temporary

1 work space. It would be from the exit point or closely  
2 around it out and we feel we can string out our pipe in  
3 such a manner on the New Hampshire side to pull back  
4 through.

5 Q. Now, Mr. Morgan, I want to address a number of questions to  
6 you in the area of pipeline design and pipeline  
7 installation and subject to the legal issues that  
8 Mr. Pfundstein has identified, I want to ask you, sir, if  
9 you would explain what the Company does or typically does  
10 to ensure the effective pipeline design?

11 A. The process begins with standard pipeline specifications  
12 and Tennessee Gas has been in the pipeline industry for  
13 many, many years and we have standard specifications that  
14 are approved. We provide those specification requirements  
15 to an engineering firm. The engineering firm then goes out  
16 first off and does the detailed engineering survey and once  
17 brought back and processed, there are several issues then  
18 from the survey and from the alignment, from the  
19 photographs for classification U.S.G.S. quads that the  
20 engineering firm looks at. It's an assortment of  
21 experienced pipeline engineers that work for Wilbros Energy  
22 who have done several natural gas pipeline projects and, as  
23 I said before, we have oversight roles of engineers in  
24 Houston that oversee their work. My job predominately up

1 here has been the acquisition of that data to give to them  
2 for them to do the detailed design. However, I do  
3 coordinate with our Houston engineers to oversee their  
4 design. Some things obviously that they look at are the  
5 classification requirements for wall thickness and pipe  
6 design. They look at detailed design of railroad and road  
7 crossings and river crossings. We develop what we call a  
8 piping schedule. It details out exactly where the  
9 classification requirements are for wall thickness at  
10 roads. It identifies the thickness of concrete for  
11 buoyancy requirements in wetlands and streams. They look  
12 at launcher and receiver locations for the ability to smart  
13 pig as necessary.

14 Q. What are launchers and receivers and smart pigs?

15 A. Basically it's a piece of pipe that comes out of the  
16 ground to allow the ability to put in an instrument that  
17 travels through the pipeline and can identify anomalies or  
18 problems within the pipeline and give you an actual read  
19 out. It basically helps you determine the integrity of  
20 your pipeline. So, we are installing facilities to be able  
21 to do that in the future. They are responsible for  
22 designing and developing the cathodic protection system to  
23 be maintained -- to maintain the pipeline. They are also  
24 looking at the requirements for SCDA, which is System

1 Control and Data Acquisition of the pipeline in  
2 coordination with the gas control divisions, and as you  
3 know, there is basically the fact that Maritimes Northeast  
4 will be operating the southern portion of New Hampshire and  
5 PNGTS will operate the northern, there definitely needs to  
6 be coordination there and we both understand that.  
7 Continuing on, they did the meter station design and the  
8 horizontal directional drill designs as well. They look at  
9 the geotechnical information that was developed in the  
10 field program. They take that and analyze it and determine  
11 the feasibility of the directional drill proposals by the  
12 Company and they also developed a hydrostatic test plan,  
13 which is for -- a requirement of testing the pipeline  
14 before it's put in service to meet the requirements of DOT  
15 for testing. All this has taken place with the oversight  
16 role of El Paso Energy. It's not done in a vacuum by any  
17 means. We work with them daily. It doesn't just pop out  
18 of design and here it is and we take a look at it. It's a  
19 continuous inner process and works very well.

20 The one -- the next step where there is considerable  
21 quality control is in the procurement of materials. The  
22 pipeline and valves have specific stages of inspections.  
23 When the steel is ordered they have to call us and we go  
24 inspect the steel, the plate. When it is rolled we go

1 inspect the first roll. We don't let them roll two hundred  
2 miles and then go check it out. We go check it out first.  
3 Even before that I should have said that the mills go  
4 though a strict inspection before they can even be  
5 qualified to roll the pipe. So, it's not just the low  
6 bidder that gets the pipe roll. So, that's scrutinized  
7 very heavily, the pipe before it ever leaves the mill.  
8 Along with the pipe rolling is the coating of the pipeline.  
9 Many times in the past it was the pipeline mill would roll  
10 it and that was the extent of their work and we would send  
11 it off to get coating somewhere else and I think the mills  
12 have seen the need to make it much more efficient to  
13 eliminate a handling step, to have this coating process on  
14 their mills. So, we're seeing more and more mills put  
15 coating installation facilities on their site. So, many  
16 times now it's all one process we eliminate the handling.

17 So, that's kind of the oversight from the design  
18 standpoint. It's very well scrutinized and there are  
19 several people involved from all aspects, all the people  
20 that I went through on the resumes have all been involved  
21 in the design and oversight role working with Wilbros on  
22 the project.

23 Q. What happens typically with respect to installation?

24 A. In the next step, once we get finalized, complete

1 construction drawings, as Mr. Penney stated, we go out and  
2 we get a construction contractor to install the pipeline  
3 and the first thing we do is training and training involves  
4 not only environmental training but safety training. The  
5 inspectors that will be working for the pipeline company,  
6 as well as the inspectors and foremen, superintendents of  
7 the contractor all are required to go to the training. It  
8 only lasts -- it could last two or three days or sometimes  
9 it lasts a week, depending on the extent of it, but it's  
10 pretty intense. It's a review of everything. It sets up  
11 procedures for protocol during construction. It sets up  
12 procedures for daily tailgate safety meetings of what's  
13 going to happen in weekly office meetings on the job site  
14 many times, requirements for safety meetings.

15 I'm kind of going through the installation real quick.  
16 I know I've gone through this several times for the  
17 Committee at the hearings, but the first thing that happens  
18 when you get out there is you take the construction  
19 alignment sheets and restate the line in its entirety. You  
20 state not only the center line, you state the boundaries of  
21 the work space. You state the delineations of the  
22 wetlands. You state the areas of any other -- if there are  
23 archeological sites that need to be fenced off or worked  
24 around, we mark those. So, all the boundaries of work

1 space and exclusion zones are identified exactly before  
2 anybody gets out there clearing and cutting. So, that  
3 takes place real early. Then that's when the clearing  
4 stages begin with clearing, followed by the grading, which  
5 is the preparation for the right-of-way for the equipment  
6 to work on. As this is going on, sometimes even before, we  
7 have inspectors at the pipe yards. The pipe will start  
8 coming in and the materials to be installed and we have  
9 inspectors at the pipe yard to basically inspect it again  
10 to ensure that no damage was done during travel to the  
11 site. So, before they ever -- it's ever off loaded it's  
12 inspected one more time to make sure that there's no major  
13 damage to the materials.

14 As the trench is being dug you have inspectors over  
15 every stage. We have inspectors over the clearing. We  
16 have inspectors over the grading applications. We have --  
17 it then becomes the ditching and the blasting. We have  
18 inspectors over that for the Company. You have -- once the  
19 pipeline is strung out, you also have a bending inspector  
20 who is out there working with the contractor to ensure  
21 that, make sure that the pipe is bent to conform to the  
22 ditch. It may take a degree or two here and there, left or  
23 right, or up or down to conform to the ditchline. So  
24 that -- there's inspectors there. Once the pipe is welded

1 up, there's welding to ensure that they're following  
2 welding specifications. There's one hundred percent x-ray  
3 of the weld to ensure its integrity and then the coating of  
4 the wells has a coating inspector. So, once the coating is  
5 installed, basically -- in all these stages I talked about  
6 the coating to ensure for a protected pipeline there's  
7 steps. The coating is inspected at the mill, as I said,  
8 the coating is inspected as it gets to the pipeyard once  
9 the coating is applied in the field, that's inspected at  
10 the weld and then one more time before it's loaded it's  
11 inspected for basically, it's called a G, basically it's a  
12 wire wrapped around the pipeline to roll it down and if  
13 there's a holiday in the coating and there's a bare piece  
14 of metal that could be exposed from the arc, the current  
15 will arc across it and you'll be able to see it and they  
16 patch it right there before it's ever loaded in. So, again  
17 it's inspected one more time before it's loaded in.

18 Before it's loaded in there's preparation of the  
19 ditch. There's padding requirements per our specifications  
20 to ensure that you don't just set the pipe down on rock.  
21 That could damage the coating or the pipeline. Then begins  
22 the backfilling requirements. Backfilling has  
23 specifications for the first -- the filling, the  
24 backfilling around the pipeline as well as 6 inches above

1 it has a certain specification, size of rock and then from  
2 there on up it has another specifications. So, that's  
3 inspected as well to ensure that that is met.

4 The hydro test activities, as I stated earlier.  
5 Wilbros Engineers will design the hydro test plan. Just to  
6 give you an example, the first section from Pittsburgh, New  
7 Hampshire the first forty-five or fifty miles is  
8 anticipated to be what spread 1 is, right now there's 22 to  
9 24 test sections. What ends up happening is we have to  
10 test the pipe to a minimum of 90% of the specified minimum  
11 yield strength but not over 105% of the specified minimum  
12 yield strength and with the topography and the relief you  
13 have some sometimes the high point to get 90% at the top of  
14 the hill, there may be 120% of the specified at the bottom  
15 of the hill, so you have to break it into sections so you  
16 don't over pressure as well. So, you have to break the  
17 whole thing in sections from the first fifty miles. So,  
18 that's designed specifically and then that's carried out.  
19 There's an eight hour test for hydro test to meet those  
20 requirements.

21 Once the pipeline has been installed and hydro tested  
22 and the test is successful, then many times what we do then  
23 is we run a caliper pig. And all a caliper pig is, you run  
24 it through the pipeline with air or something else and it

1 checks to make sure the pipeline was not egged in anyway by  
2 the backfill or dented in any way. It checks the ID to  
3 make sure it is still uniform and round in there the way it  
4 is supposed to be. If you see a significant dent in your  
5 log or whatever, there's an area for a cut out and you have  
6 to go in and replace it. So, you have final verification  
7 after you've backfilled it and after you've tested it, that  
8 your pipeline is still in good condition before it is put  
9 in service.

10 And then finally, I mentioned the fact that during  
11 operating maintenance, which I know Maritimes will get in  
12 with the southern -- in the northern, smart pig and it  
13 tells you pigging will be performed as necessary along the  
14 pipeline and a lot of times that goes along with our  
15 cathodic protection plan and our surveys and our readings  
16 and determine when that is needed. So, it's a major  
17 process to install it and there is a major oversight role  
18 by the Company to ensure that the pipeline is installed and  
19 safe in the proper manner.

20 Q. Now, you mentioned in the course of that discussion the  
21 hydrostatic testing. So, I want to give you Exhibit 30 and  
22 ask you if this represents material reflecting the current  
23 state of plans and informations with respect to the  
24 hydrostatic testing and also to explain where that process

1 of design stands at this point.

2 A. I believe that these plans that are here that have been  
3 filed -- let me see what this is first. Plans have been  
4 filed here, the tables identify starting points and ending  
5 points of the test sections and it goes into significant  
6 detail about the high point elevations and maximum test  
7 pressures, minimum test pressures -- the maximum and  
8 minimum test pressures and the water usage along the way.  
9 After we looked at this we decided to make a little bit  
10 better representation of it. This was a preliminary draft.  
11 What we've done now is we've asked them to look at the  
12 development of -- you have slope station and you have  
13 horizontal station. When you're out data collecting on  
14 survey your distance is horizontal and you shoot from one  
15 spot to another shot, the ground may go down and up, but  
16 you shot straight across. It doesn't give you an accurate  
17 representation of the slope and the actual distance that  
18 the pipeline is going to be laid. So, it's not a  
19 significant difference but it does make -- you do need to  
20 -- in order to accurately order your pipe, you definitely  
21 need to have your slope station. So, from the hydrostatic  
22 test design I think right now this was a preliminary --  
23 unless there was something else there -- yeah, we have a  
24 revised version here of June 10th, that's what I thought,

1           okay, which basically just gives the beginning and ending  
2           mile posts and the lengths and the gallons of water where  
3           the test sections begin and end. When you get into more  
4           detailed plans here with the drawings, which we will have  
5           for construction, right now they were all horizontal and  
6           those will be finalized with slope stations as well. You  
7           need them horizontal so you can refer to the alignment  
8           sheets, because the alignment sheets are horizontal  
9           stationed, but from the standpoint of actual footage of  
10          your testing of your pipeline, it needs to be sloped  
11          stationed.

12        Q.    What about dissipating devices?

13        A.    Yes we basically have two major -- two preferred methods of  
14          dissipating devices. The first one is in a well vegetated  
15          area, you create a hey bale or a wood sill fence and  
16          corral, so to speak, a boundary so as to when it goes into  
17          a pipeline it is dissipated through a piece of pipe through  
18          a weare and goes into kind of a sump area in a vegetative  
19          area and then it disperses across the land and eventually  
20          travels back to the source location. That's one point I  
21          should make, all the fill locations we're proposing as  
22          sources, be it Upper Ammonoosuc or whatever -- or  
23          Squamscott or whatever, the spill sites will be returned to  
24          the same watershed to the same locations but the one method

1 is, as I stated, is the hay bale type scenario. The other  
2 method is if you just don't have any place that is well  
3 vegetated or any place to put it, many times you'll put the  
4 pipe right out over the water, over the bank, and a lot of  
5 times they will just weld a plate or something up and the  
6 pipe will come and hit that plate and like make a rainbow  
7 and it will just be like a rainbow on the river, so you  
8 don't have any erosive problems in the river at point  
9 discharge. So, you disperse the discharge water with the  
10 plate or some mechanism to disperse it in the air out over  
11 the river and it doesn't even touch the ground. There's  
12 two different methods depending on the site specific  
13 location.

14 Q. Are there ongoing discussions with DES scientist regarding  
15 details of the hydrostatic test plan?

16 A. I'm sure we'll talk about that some more Thursday.

17 Q. Now Mr. Morgan, I wanted to ask you, there have been  
18 certain recommendations made in connection with Public  
19 Counsel's prefile testimony and with the same caveat that  
20 we discussed on the record regarding jurisdiction, would  
21 you explain please what your response is to the  
22 recommendations regarding limiting work space along the  
23 Granite State and Portland Pipeline.

24 A. Are you referring to the Ark Engineering?

1 Q. Yes.

2 A. Based on my review, one area of concern that I would have  
3 is they are proposing to -- the offset along the Granite  
4 State Pipeline in Southern New Hampshire is twenty feet the  
5 proposed permanent easement by the pipeline is to have that  
6 20 feet as permanent between the two pipelines, so an  
7 additional 30 feet outside for an area for maintaining and  
8 operating the pipeline. Ark Engineering has proposed a 15  
9 foot area out there as opposed to our proposed 30 inch --  
10 our 30 feet. Obviously so we can -- Maritimes can top that  
11 from an operations standpoint, but I know that the problems  
12 with that requires the traversing up and down the  
13 right-of-way the majority of time and it would require to  
14 be between the two pipelines or on top of Granite State or  
15 on top of our line. It doesn't allow for much room for  
16 activities along the pipeline area. Another reason for  
17 having 30 feet from the outboard side of the pipeline is  
18 from a protection standpoint. We really don't want people  
19 getting too close if they are digging and things like that  
20 or building up next to our easement. We feel that 30 feet  
21 is sufficient. One might say that, you know, up in  
22 Northern New Hampshire along the PSNH power line. We're  
23 saying 15 feet is good but the thing about it is that the  
24 development in Southern New Hampshire is considerably

1 different than the development in Northern New Hampshire  
2 and we don't anticipate a lot of building lots and things  
3 like that being erected along the existing PSNH corridor up  
4 there, so we don't have the same concerns from that  
5 standpoint of interference, with third party interference.  
6 So, that would be very difficult from an operations  
7 standpoint to maintain our pipeline with only 15 feet on  
8 the outboard side.

9 The other recommendation by Ark was to move on the  
10 eastern end of Shelburne, we're proposing to be off of  
11 Portland Pipeline by 25 feet. Their outermost pipeline,  
12 they're proposing that to be moved into 15 feet. The 25  
13 feet offset of Portland Pipeline would allow us to put our  
14 spoil in the 25 feet and working outboard. If we were 15  
15 feet away our spoil would either have to be put on top of  
16 the oil lines, and thus working on top of it or we would  
17 have to put it on the working side and work off the top of  
18 it, which is a considerably slower process for installing  
19 the pipeline and much more -- basically you get an elevated  
20 work area above your ditchline and a much more tougher  
21 construction. So, the 25 foot offset allows us the ability  
22 to install it sufficiently and there's a lot of things go  
23 in there, standard industry practice is 20 to 25 feet.  
24 Fifteen feet is very close. I can assure Portland Pipeline

1 would have several issues with us being 15 feet away from  
2 the pipeline as well as any blasting requirements for those  
3 pipelines that were put in in 1955 and 1965. So, we feel  
4 25 foot is a good distance to be away from Portland  
5 Pipeline.

6 Q. And there was some recommendation regarding electrical  
7 inspectors?

8 A. Yeah. I'm not totally against that. I think what's gonna  
9 have to happen there is we're gonna work with Public  
10 Service of New Hampshire. We've had meetings already with  
11 them concerning cathodic protection. There's going to be  
12 future meetings for AC mitigation requirements. I think  
13 we'll definitely have their representatives out there with  
14 us working with us during construction. We're following  
15 them a considerable length in New Hampshire and they're  
16 going to be an integral part of our installation process  
17 for installing this pipeline along their power line.  
18 They're going to be there, I can imagine, almost every day  
19 in some locations.

20 Q. Mr. Morgan, have you had an opportunity to review  
21 recommendations from the North Country Council that were  
22 filed as part of Public Counsel's prefile testimony?

23 A. Yes, I is.

24 Q. And do you agree with that set of recommendations?

1 A. I have some reservations about some of those  
2 recommendations, yes.

3 Q. Well, with respect to construction scheduling, do you have  
4 a comment?

5 A. Yes. Yeah. I think the one recommendations was in  
6 residential areas we only work 7:00 a.m to 7:00 p.m. Monday  
7 through Friday. My experience there is that in working in  
8 residential areas, you're gonna come in there and impact in  
9 close proximity to their homes or their streets, having  
10 equipment up and down the streets. The best thing to do is  
11 get in their and get out as quick as possible. That's not  
12 to say that we've never accomodated someone whose got a  
13 family reunion planned or some other activity going on in  
14 their area Saturday and ask us, can you give us some help  
15 here and we've done that on several occasions. To blanket  
16 across the Board, any residential area do not work on  
17 Saturday would just lengthen the time frame and I can -- my  
18 experience has been that people would rather you get in and  
19 get out of there and get it over with, as opposed to  
20 stretching out the length of disturbance in their area.

21 Q. What's the typical notice process for advising people of  
22 blasting?

23 A. I think the recommendation was that we notify people ten  
24 days in advance of any blasting. I think probably the

1 standard there -- the typical there is probably one to two  
2 days. The problem is you don't -- many times you don't  
3 know exactly where you are going to blast. We've got  
4 construction conditions reports that tries to help us  
5 identify where it is going to be and sometimes you can rip  
6 it and sometimes you can't and just to say that I've  
7 identified an area that I need to blast and to have to wait  
8 ten days to do it severely hinders the progress of the  
9 project and again, we want to get out of there, out of the  
10 way. We will notify landowners, like I say, a typical one  
11 to two day notification is more typical.

12 Q. There was a recommendation and some testimony at the  
13 beginning of this proceeding about sleeve crossings. Can  
14 you tell us about that?

15 A. Yeah. I think North Country Council's comments concern  
16 sleeve crossings with foreign crossings, first off. I know  
17 what's been talked about was access across our pipeline. I  
18 think their comments was any time we crossed and existing  
19 sewer pipe or water pipe or any foreign crossing that in  
20 the process of installing our pipeline underneath, which is  
21 typically the case, then we would sleeve their pipeline to  
22 allow them at some future date, I guess, to work on their  
23 pipeline without having to dig in the area of our pipeline.  
24 That's not typical at all. We work with the foreign

1 crossing, whether it's sewer or pipeline, we do the dig  
2 safe requirements or if it's landowners with their water  
3 lines or whatever, we work with them and identify those  
4 locations. Obviously, if we damage a water line or  
5 something as that, we fix that, but to sleeve it just may  
6 cause future problems with the crossing utility. So, we  
7 don't propose to sleeve the crossings at foreign  
8 crossings. Our separation of 18 to 24 inches, I believe,  
9 between a foreign crossing and the top of our pipeline  
10 allows protection from our cathodic protection system and  
11 if there is -- if it is a steel pipeline crossing we put in  
12 test leads on either side to make sure that we're not have  
13 a problem with cathodic protection.

14 So, the next question came of sleeving our -- for  
15 someone to have access to their property, to the back lot  
16 of their property or something like that. We will  
17 definitely -- anybody that says I'm going to travel across  
18 this thing with a skidder, I want to be able to have  
19 access, we're going to do. We're going to make it right  
20 for them to be able to do what they were doing with their  
21 property. If we have no idea that there is something ten  
22 years from now we're going to log that thing, and they come  
23 to us then and say "Look, I'm going -- I need to run a  
24 skidder in and out of here, you know, I want to travel over

1        your pipeline," it's no problem. We don't have to go in  
2        and bury the thing 10 feet deep. You just go in there, you  
3        can put some gravel, you can build up a berm, you can make  
4        a cross at that one location. It's a very workable  
5        situation. So, we'll work with the people on that. If  
6        they can tell us up front and they tell us and they know  
7        exactly what type of equipment they're using, we can get  
8        some loads, we can do some things prior to that and it  
9        doesn't necessarily mean we have to sleeve it. So, if it  
10       means add six inches of cover, whatever it might need and  
11       we just normally would like to isolate it to a crossing  
12       point, you know, we can't allow them to travel anywhere  
13       they want up and down it, but at crossing points we can do  
14       that and we do readily.

15                I guess one last issue that North Country Council came  
16       out with was for us to stove pipe the installation of a  
17       pipeline whenever we're within 100 feet of the pipeline. I  
18       think that just goes right back to the issue of timing.  
19       Stove piping can be done. It's a very slow and meticulous  
20       process. You bring in one piece of pipe at a time and you  
21       drop it in. You have to dig out the trench exceedingly to  
22       get in and do your tie-ins underground and you're piecing  
23       it in one piece at a time underground and it's very slow.  
24       You're squeezing down on your work space and you can't pass

1           each other. The best way to do it when you're real close  
2           to a house is to run your trench through there or your  
3           backhoe through there, you trench it out, you have two or  
4           three pieces of pipe welded up already, you walk it in, you  
5           drop it in, you know, a longer section if you're real close  
6           and then you do tie-ins way away from it and backfill it  
7           and then we can work on the top of it, so to speak, in  
8           certain areas. I think a 100 feet is a little far. I  
9           think in response to some other issues about -- and you've  
10          had several of them here today about the 25 foot or 40 foot  
11          or whatever. FERC has required us to supply them with  
12          residential construction drawings for any house or any  
13          residence within 25 feet of the work space. In that  
14          residential construction drawing we provide a detailed  
15          description of the method of construction, whether we're  
16          going to stove pipe or whether we're going to put a drag  
17          section together or whether we're going to strip topsoil of  
18          their yard or whatever the case may be. We try to identify  
19          in detail what we are going to do. And yes, I know we  
20          haven't provided that for the southern section but it is  
21          being completed and I hope it's completed before the next  
22          week, I could have copies of all the southern residential  
23          drawings within the next week.

24    Q.    With respect to the residential drawings for the north, are

1           they contained in Exhibit 56, along with some tables?

2    A.    Yes, they are.

3    Q.    There was some concern expressed I think from Newington  
4           about safety around the Pease Development Authority.  
5           What's the status of planning on that?

6    A.    We have had preliminary talks with the PDA, the Pease  
7           Development Authority and the airport manager there. He's  
8           got some ideas on construction. I think we're about 250  
9           [foot] offset at the edge of the runway. I don't know that  
10          that's his greatest area of concern. I think it's where we  
11          cross the runway at the end. I think that's what  
12          Newington's concern is too; what are we doing extra where  
13          we cross the runway, I mean not actually the runway. Let  
14          me clarify. We get outside the fence and then we cross the  
15          landing or flight path, so to speak, on the northern side.  
16          On the southern end we do not. As we go down the runway we  
17          actually turn and go, I guess, southwest away from it. We  
18          don't actually cross actually the landing pad, but on  
19          the -- near the Newington end we do cross the path, cross  
20          the lights at the end of the runway outside the fence.  
21          And, you know, as far as designing there, that's going to  
22          be along Arboretum Drive or close to Arboretum and, you  
23          know, they'll be specific design criteria along the runway  
24          that PEA will require us to do there. So, whether it's

1           increase the wall thickness or get a little bit deeper,  
2           we'll work with them to get a mitigating plan there,  
3           elleviate their concerns.

4    Q.    This backtracks a little bit topically, but if you would  
5           identify for us what Exhibit 60 contains.

6    A.    It looks like a data request from FERC dated August 7th and  
7           prepared on March 13, question 13.

8    Q.    It has to do with proposed locations of mainline valves and  
9           peak launchers and receivers, I believe?

10   A.    I guess I can just read you the response here. Well, the  
11           question says, "Specifically describe the proposed class  
12           location by mile post, the use of remotely or manly  
13           operated block valves, the use of concrete or other  
14           pipeline coating or casing where the depth of pipeline  
15           burial and type and frequency of aerial and pedestrian  
16           surveys will exceed the minimal requirements." It states  
17           that PNGTS indicated this information regarding the use of  
18           remotely or manually operated block valves would be  
19           available in March 1997. Attachment 13-1 identified the  
20           planned valve locations pending site purchases, the target  
21           date for specifying the operation of the valves is later  
22           this spring, set up by Mike Lloyd, engineer for EPEC.  
23           There is a table outlining the proposed class locations.  
24           This is from the Canadian boarder down to Portland. So,

1           it's Northern New Hampshire. And then there's a table  
2           identifying the class locations for the Joint Pipeline  
3           Project from Dracutt to Westbrook with value locations  
4           identified in the classifications.

5    Q.    And Applicant's Exhibit 64 entitled the "Flow Diagram  
6           Data," the table there.

7    A.    Yes. This is a -- in our FERC application we have to  
8           provide as Exhibit G our flow diagram showing that the  
9           volumes we're projecting to transport in the pipeline can  
10          do just that within the sizing of the pipeline. So, it  
11          gives the size of a 30 inch, 24 inch and then also the  
12          laterals and it gives a summary of the pipeline to be  
13          installed.

14                       MR. KRUSE: Thanks, very much. I have no further  
15    questions, Mr. Chairman.

16                       CHAIRMAN VARNEY: Thank you. Leslie.

17                                       CROSS EXAMINATION

18    By Ms. Ludtke:

19    Q.    Now Mr. Morgan, what I want to do is I'll go through the  
20           items you testified about today and then I have some other  
21           questions and so I'll probably just break before that, if  
22           that's okay. I'll just run through these and then start  
23           the other ones tomorrow. Let me just follow-up on some of  
24           the -- some of your testimony this evening. The first item

1 concerned the Groveton Lateral, do you recall that?

2 A. Yes.

3 Q. And you referred to the mention of it in the application,  
4 is that correct?

5 A. Yes.

6 Q. Has there been any material filed which indicates the width  
7 of the right-of-way to be maintained for the Groveton  
8 Lateral?

9 A. The alignment sheet shows a proposed width of permanent  
10 temporary easements.

11 Q. And what is that width?

12 A. It shows right now a 25 foot -- well it shows a 25 foot  
13 temporary and 50 foot permanent. However, in selected  
14 areas it's been reduced to only ten feet of permanent where  
15 there is -- in a congested area around some tanks.

16 Q. Have calculations been filed with the Wetlands Board  
17 related to the impact calculated on the basis of that  
18 width?

19 A. Yes.

20 Q. And when were those filed?

21 A. Just one moment.

22 CHAIRMAN VARNEY: You mean the Wetlands Bureau,  
23 right?

24 MS. LUTDKE: Yes. Wetlands Bureau. Excuse me.

1 I'm out of practice.

2 A. I believe the application shows December 16th it was  
3 updated.

4 Q. And that would be before the alignment that is shown on  
5 that alignment sheet, is that correct?

6 A. Could you repeat that?

7 Q. The update would be for the alignment that is shown on that  
8 sheet with the width, is that correct?

9 A. That would be my impression, yes.

10 Q. Do you know whether that is correct?

11 A. Yes, to the best of my recollection, that was filed for  
12 that width of that easement.

13 Q. Now, you went through a number of recommendations from Ark  
14 Engineering and the North Country Council. Are you also  
15 familiar with the recommendations made by Haley & Aldrich?

16 MR. PFUNDSTEIN: Mr. Chairman, I would just  
17 reiterate my objection at this time and allow the witness to  
18 proceed with the questions, the objection being based upon a  
19 jurisdiction with respect to the regulation of safety,  
20 construction, and the operation.

21 Q. My question pertains to the recommendations made by Haley &  
22 Aldrich, which primarily relate to river crossings. Are  
23 you familiar with those, Mr. Morgan?

24 A. Yes, I've looked at the report, the testimony.

- 1 Q. Do you disagree with any recommendations made by Haley &  
2 Aldrich.
- 3 A. I'm have to defer to Brent Evans, who is going to testify  
4 to the specifics of the Haley & Aldrich report.
- 5 Q. Were you involved in the river crossings?
- 6 A. In what aspect?
- 7 Q. Which aspect of the river crossings were you involved with?
- 8 A. I was basically involved with the selection of routing  
9 across the river crossings and the preliminary  
10 determination of the crossing method.
- 11 Q. And you've reviewed the Haley & Aldrich crossing material?
- 12 A. Yes. I've looked at material.
- 13 Q. And you have the engineering ability to make judgements  
14 about those recommendations, is that not correct?
- 15 A. I have a Staff of -- with Brent Evans and Wilbros  
16 Engineering that are analyzing the information by Haley &  
17 Aldrich.
- 18 Q. Are you telling the Committee that you are unable today to  
19 respond to the Haley & Aldrich recommendations; that there  
20 is only one person on the Staff that is capable of  
21 responding to those recommendations?
- 22 A. I can respond to some of their issues if you would like to  
23 be specific and ask me, I could say yes or no.
- 24 Q. Well, you're familiar with the recommendations they made in

1           their report, are you not?

2    A.    I've read their report, yes.

3                   MR. KRUSE:   Excuse me, can we have the  
4    recommendations in front of him if you want to address them one  
5    by one?

6                   MS. LUTDKE:   Well, I'm asking him whether he  
7    disagrees with any of the recommendations.  Can you think --

8                   MR. KRUSE:   I think he needs to have them in  
9    front of him and he also indicated that this is basically a  
10   panel question.  I think and actually, maybe it makes sense  
11   considering the methodology that I think was quite effective  
12   with the representatives from Haley & Aldrich, perhaps Mr. Evans  
13   could join Mr. Morgan at the mic and could assist in responding  
14   to your questions, just like those fellows did.

15                   MS. LUTDKE:   Well, I would like to ask this  
16   question to Mr. Morgan.  Mr. Evans, as you recall, was not  
17   disclosed as a witness until very recently and no testimony has  
18   been filed on behalf of Mr. Evans, so I'm asking --

19                   MR. KRUSE:   He was disclosed over a week ago as a  
20   panelist and of course you've known for some time that he was  
21   involved.  So, either we can get to the bottom of it and get the  
22   answers out now or we can delay -- I think probably cause some  
23   delay by insisting upon individual cross examination, which, of  
24   course, we didn't do with Haley & Aldrich.

1 MS. LUDTKE: Well, I'm not going to discuss  
2 causes for delay at this point. I think there is a question  
3 that I asked Mr. Morgan, which is a fair question and that is,  
4 does he disagree with any of the recommendations made by Haley &  
5 Aldrich?

6 A. Yes. I disagree with some of them.

7 Q. Which ones do you disagree with?

8 A. I guess I'd like to restate that I was under the impression  
9 this was a panel discussion and that Brent Evans was to be  
10 commenting on the specifics of the areas that we disagree  
11 on. I know there was an issue, we've talked about issues  
12 of their recommendation for further testing at river  
13 crossings, their recommendations of having blasting plans  
14 incorporated now, their recommendations of -- their  
15 comments on the Shelburne alternatives. Those issues we've  
16 talked about and Brent Evans is prepared to comment  
17 specifically on this. I think the Committee would, rather  
18 than me give my opinions, we have a panel that is going to  
19 give specific answers, other than waste your time.

20 Q. All right. Now, Mr. Morgan, you discussed with the  
21 Committee your plans with respect to temporary work spaces  
22 on Hogan Road, do you recall that?

23 A. Yes, I do.

24 Q. And I think you wanted to provide the Committee with

1 assurance that you would not be using any additional  
2 temporary work spaces in the Hogan Road area, is that  
3 correct?

4 A. We would not be using anything other than what we have  
5 proposed in our recent mitigation plan, which I understand  
6 the Committee has not seen. So, that will be formally  
7 proposed.

8 Q. Now, is there anything that you filed with this Committee  
9 or with the Public Counsel that the Committee could review  
10 to have some kind of written assurance that that's what you  
11 were going to do with regard to the temporary work spaces  
12 or is it just based on what you're telling the Committee  
13 right now?

14 A. If you would like us to stipulate in our mitigation plan  
15 that we will not utilize any additional temporary work  
16 space other than what we're proposing in the plan, we can  
17 do that.

18 Q. Well, the question I asked you is not that question. The  
19 question I asked you was, do you know whether there is  
20 anything that's been filed in writing that the Committee  
21 could look at or Public Counsel could look at that would  
22 provide some assurance that that was the plan with respect  
23 to Hogan Road?

24 A. No. The answer is no.

- 1 Q. Nothing has been filed in writing?
- 2 A. Not to my knowledge, no.
- 3 Q. Now, you also gave us some description of your design and  
4 construction methods. Do you recall that?
- 5 A. Yes.
- 6 Q. And you described that in detail to the Committee?
- 7 A. I guess what part are you talking about.
- 8 Q. Just the general way in which the pipeline pipe is  
9 constructed in your design and the engineering aspects of  
10 the project?
- 11 A. I spoke of the process that we go through and the  
12 inspection process of installation, yes.
- 13 Q. Now, has what you provide, the information that you  
14 provided the Committee and to the Public Counsel tonight  
15 been provided in writing in any of the filings that you've  
16 made with the Committee or Public Counsel?
- 17 A. Probably not in the same language I just expressed it  
18 tonight, no.
- 19 Q. Has it been provided? Has the substantive information been  
20 provided so that either Public Counsel or the Committee  
21 would know what your plans were with respect to these  
22 construction techniques?
- 23 A. Now you're talking about construction techniques. I didn't  
24 say that. I said I provided information on design process

1 and inspection process for construction.

2 Q. But you didn't provide the information that you just  
3 provided to the Committee and the Public Counsel now, did  
4 you?

5 A. You have to repeat the question.

6 Q. The information that you provided to the Committee and the  
7 Public Counsel was new information. It was provided for  
8 the first time this evening, is that correct?

9 A. My direct testimony, yes.

10 Q. So, we haven't heard that before?

11 A. That's correct.

12 Q. Now, is this something that just came to you recently that  
13 you were unable to provide to the Committee or to Public  
14 Counsel within the past year?

15 A. No. It didn't just come to me.

16 Q. You've known it all along?

17 A. Yes.

18 Q. Just the information simply hasn't been provided, is that  
19 correct?

20 A. That's correct.

21 Q. Now, you recall testimony that was filed on behalf of  
22 Mr. Marini?

23 A. That's correct.

24 Q. And you're capable of responding to those recommendations,

1           aren't you?

2    A.    I'm capable of responding, yes.

3    Q.    Are there any recommendations made by Mr. Marini with which  
4           you disagree?

5                   MR. PFUNDSTEIN:  Mr. Chairman, in order to avoid  
6    interrupting Counsel throughout the course of the rest of the  
7    proceeding, may I simply have a continuing objection to any  
8    questions whether they are proffered by our side or solicited on  
9    cross examination, which go to the issue which I've raised  
10   concerning the jurisdictional, exclusive jurisdiction of the  
11   Department of Transportation.

12                   CHAIRMAN VARNEY:  Fine.

13                   MR. PFUNDSTEIN:  Thank you, Mr. Chairman.

14                   MS. LUTDKE:  Mr. Chairman, I'd like to make a  
15   note for the record that Attorney Kruse asked Mr. Marini  
16   questions about this very subject matter and I am just asking  
17   questions about the same subject matter that they just inquired  
18   of the witness.

19                   MR. PFUNDSTEIN:  Mr. Chairman, actually I believe  
20   Counsel if referring to Mr. Morgan not Mr. Marini and Attorney  
21   Kruse did preface those questions with a reference to the  
22   earlier objection which I put on the record.  And just to be  
23   clear, in case there is any confusion, I'm not objecting to  
24   counsel asking Mr. Morgan a question.  I just want to make it

1 clear on the record, so that there is no misunderstanding where  
2 we are with this, that's all.

3 CHAIRMAN VARNEY: We're clear. Thank you.

4 Q. Mr. Morgan have you had an opportunity to review Mr.  
5 Marini's testimony?

6 A. Yes, I have.

7 Q. And are there any recommendations that Mr. Marini made with  
8 which you disagree?

9 A. Yes, there are.

10 Q. And specifically what are those recommendations?

11 A. I guess we're just gonna go through them one by one. On  
12 page 2 of his testimony "specific instruction issues" his  
13 recommendation states the applicant should submit  
14 comprehensive written specifications or standards to be  
15 utilized in the construction of each facility to the Site  
16 Evaluation Committee. The process we have in place right  
17 now, the construction contractor has -- will develop or  
18 will be provided construction specifications regarding all  
19 aspects of installation of the pipeline, albeit welding,  
20 blasting, construction. We have a typical -- I believe  
21 Mr -- the contractor basically will be given a typical  
22 pipeline construction specification and in his proposal  
23 back to us he'll provide us one that we will approve for  
24 construction of the pipeline from all construction

1 requirements per the DOT requirement of having those  
2 written before construction begins.

3 Q. Now you Mr. Morgan, don't you think that this Committee has  
4 a role in at least making recommendations to the FERC  
5 regarding safety concerns and safety issues that might  
6 effect the citizens of New Hampshire?

7 A. Yes, I do.

8 Q. And how would you advise this Committee to make those  
9 recommendations if it does not have any information made  
10 available to it regarding safety, regarding your  
11 construction specifications or your plans with respect to  
12 safety.

13 A. They have the information that we will follow the federal  
14 requirement, DOT 192.

15 Q. Now, you read Mr. Marini's testimony, didn't you, and  
16 you're familiar with those US-DOT regulations, aren't you?

17 A. To some extent I'm familiar, yes.

18 Q. And those US-DOT regulations are performance regulations,  
19 aren't they, Mr. Morgan?

20 A. I guess that's someone's opinion.

21 Q. Well, the US-DOT regulations do not set minimum standards  
22 so that someone can just write the specs off the shelf by  
23 those regulations. They're performance standards that are  
24 based on site specific information, aren't they?

- 1 A. Again, that's one's opinion.
- 2 Q. It's not your opinion?
- 3 A. Possibly, it depends on specific areas.
- 4 Q. Well, lets go back to Mr. Marini's testimony. Well, let's  
5 look at "toughness standards," page 3 of Mr. Marini's  
6 testimony. Would you call a toughness standard a  
7 performance standard or a minimum standard that has an  
8 actual number associated with it?
- 9 A. I believe this information here refers to looking at the  
10 environment that the pipeline will be installed in and  
11 obviously we'll take into account our installation  
12 procedures as well as our coating procedures, protection.
- 13 Q. Would it be fair to say that a toughness standard is really  
14 a site specific standard based on performance under certain  
15 site specific conditions?
- 16 A. I'd say this requirement refers to protecting your pipeline  
17 during installation of the environment around it where it  
18 is going to be installed, as long as it's protected it will  
19 meet the standards.
- 20 Q. Now, you know what information has been filed with Public  
21 Counsel. Based on the information that's available to this  
22 Committee and the Public Counsel, is there any way for this  
23 Committee or the Public Counsel to make a determination of  
24 whether you've really considered toughness in sizing your

1 pipe or in installing it in a specific area of sensitivity,  
2 such as close to a residence, or under a railroad?

3 A. The fact that the pipeline is federally regulated, yes,  
4 they could determine that we will meet the standard's  
5 requirements.

6 Q. Well, that's not the question I asked you, whether it was  
7 federally regulated or not. I asked you whether there is  
8 any way in which the Public Counsel or the Committee would  
9 be able to make any of these determinations or judgments  
10 based on the information that you provided to it.

11 A. I guess I'm not sure if exactly we've stated anywhere that  
12 the pipeline would follow DOT 192. So, I guess I can't  
13 comment on that, but that's, you know, the fact that the  
14 pipeline was federally regulated and we are required to  
15 follow those standards is, I feel, information to ensure  
16 the Committee as well as the Public Counsel that we'll meet  
17 the requirements near a house, or road, or whatever.

18 Q. So really, in your opinion, the Committee doesn't need to  
19 know anything or have any information made available to it  
20 other than your representative that you'll follow federal  
21 standards; that should be enough for the Committee?

22 A. That and what we've provided to date.

23 Q. Well, what have you provided to date with respect to safety  
24 or construction or design issues that would give the

1           Committee any assurance that you have followed US-DOT  
2           regulations?

3    A.    I can't think of any right now specifically.

4    Q.    Now, Mr. Morgan, do you agree or disagree with the  
5           recommendations Mr. Marini made regarding getting state  
6           inspectors to look at the construction of the pipeline on  
7           each spread?

8    A.    Our experience with state inspectors is that on all the  
9           pipelines that I've worked on and some of my colleagues  
10          have worked on, many times OPS, Office of Pipeline Safety,  
11          delegates a representative to the State PUC to be his eyes  
12          out there on construction. Our experience is that he comes  
13          out periodically to inspect, look at several different  
14          stages of the installation, albeit welding or coating or  
15          different stages of construction to make sure that we're  
16          meeting OPS standards.

17   Q.    So, does that mean that you agree with that and that that  
18          recommendation is acceptable and you would not object to  
19          the Committee imposing it as a condition?

20   A.    Tell me where the recommendation is, so I can read exactly  
21          what he is saying. I've got it. Page 6, "Pipeline  
22          construction should be inspected by qualified temporary  
23          personnel under contract for and reporting to the  
24          applicable State authority. Associated costs should be

1 borne by the applicant." If the Office of Pipeline Safety  
2 wants to delegate a representative to the PUC to inspect  
3 the pipeline, that's obviously under their jurisdiction.  
4 The applicant does not propose to fund that effort.

5 Q. So, your answer would be that you disagree with that  
6 recommendation?

7 A. I disagree with the -- yes, I disagree with the  
8 recommendation.

9 Q. Now, I wrote some notes of your testimony when you were  
10 talking about caliper pigs and you said "many times we run  
11 a caliper pig". Do you recall saying that?

12 A. Yes.

13 Q. Well, does that mean that you are going to do it this time  
14 or are you just informing the Committee you have in the  
15 past done it?

16 A. Both. We're going to do it this time and many times in the  
17 past we have done it.

18 Q. Well, that's my question to you, Mr. Morgan and what can  
19 the Committee be assured of that you're actually going to  
20 do? You've spent almost 45 minutes or an hour describing  
21 how safe your procedures were, but what assurance does the  
22 Committee have that they are going to be followed in this  
23 case what assurance have you given them?

24 A. I've explained the process we go through and that's what

1 we're going to do.

2 Q. Well, explain the process you go through in using the  
3 phrase. Many times does not make a commitment to do it in  
4 this case, does it?

5 A. I guess the specific issue of caliper pig, we will run a  
6 caliper pig. If I -- the way I come across in talking  
7 throws in the words that you're picking on, then I guess  
8 I'll take the "many times" back on that issue.

9 Q. Now, you also said after that, "Intelligent pigging will be  
10 performed as necessary." Do you recall that, Mr. Morgan?

11 A. Yes, I do.

12 Q. What criteria, what evaluation criteria does this Committee  
13 have to determine when that might be necessary?

14 A. On the northern -- on the northern pipeline section from an  
15 operation standpoint, I'm not an operations person. So, I  
16 can only speak from experience of talking to some people  
17 but if there are any issues or problems with potential  
18 differences in their cathodic protection program and they  
19 feel there is the possibility of a problem area then they  
20 may run one, but until they get some indication or issue.  
21 I'm not sure what the proposed plan is for the southern  
22 section. Maritimes can speak to that issue probably more  
23 readily than I can.

24 Q. Do you have any criteria you can provide this Committee so

1 the that the Committee can evaluate the criteria you're  
2 using to determine necessity to see if that was appropriate  
3 criteria in the Committee's opinion?

4 A. I can check with the pipeline company to see if they have  
5 any information and supply it, yes.

6 Q. Now, I noticed when you were discussing Arboretum Drive and  
7 some of the work you were doing in terms of putting the  
8 pipe in those areas to allow usage to continue over the  
9 pipe, that you indicated that you would work with the PDA.  
10 Do you recall that?

11 A. Yes. Well, I was speaking not really Arboretum Drive. I  
12 was saying the crossing near the runway lights was near  
13 Arboretum Drive and we were working with the PDA on that.

14 Q. Well, if you are willing to work with the PDA to come up  
15 with these toughness standards, why aren't you willing to  
16 work with Public Counsel?

17 A. I never said I was working with PDA on the toughness  
18 standards.

19 Q. Well, if you are working with PDA to allow use, to ensure  
20 that the pipeline will be sufficiently tough to allow  
21 traffic to move over it --

22 A. The crossing point is not in an area where traffic moves  
23 over it. That's not where I was speaking.

24 Q. What were you speaking about?

- 1 A. I was speaking of the crossing the runway path for the  
2 flight path of entering and exiting and we will work with  
3 PDA to meet any requirements that they have from the runway  
4 and airport manager.
- 5 Q. Are you willing to work with the PUC and the safety  
6 inspectors at the PUC to meet any requirements that the  
7 State may have with respect to pipeline safety as well?
- 8 A. Yes, we're willing to work with them.
- 9 Q. Now, yesterday you were here for Mr. Minkos' testimony, do  
10 you recall that testimony?
- 11 A. Yes, I do.
- 12 Q. And do you recall when I asked him whether landowners would  
13 be able to continue to use their property in the way they  
14 would use them before at no cost to the landowners? Do you  
15 recall that?
- 16 A. Yes.
- 17 Q. And we were talking about a driveway?
- 18 A. Yes, I do.
- 19 Q. Now, from your testimony I heard you say, "We're going to  
20 make it right for them to do what they want to do on their  
21 property. Does that mean that you are now making a  
22 commitment that the existing uses on a property will be  
23 able to continue once the pipeline is installed?
- 24 A. That's correct.

1 Q. And that will be at the cost or expense of the pipeline  
2 company?

3 A. If the information is provided to us up front at the time  
4 of the installation, yes it will.

5 MS. LUDTKE: I have another line, but I can wait  
6 until tomorrow, if you want to break at this point.

7 CHAIRMAN VARNEY: Do you want to break?

8 A. I think the it's the private sector people that want to  
9 break. The public servants want to continue but --

10 MS. LUTDKE: Well, it's just another line that is  
11 going to go for probably a half an hour.

12 CHAIRMAN VARNEY: Quite some time, okay.

13 MR. IACOPINO: I thought that we were going to  
14 try and get Mr. Evans on to -- so that the Lamms could hear his  
15 testimony.

16 MR. KRUSE: I think we can make a representation  
17 for the record that might provide some assistance in that regard  
18 and that is that the Company has agreed to go out and meet with  
19 the Lamms and take a look at their property and to discuss the  
20 situation.

21 CHAIRMAN VARNEY: Thank you. Does that sound  
22 good to you?

23 MRS. LAMM: I'm not so sure. There's been two  
24 many promises made. People have gone on to private property.

1 There's been destruction. There's been forced trial. I would  
2 not mind if Mr. Evans wanted to see where our aquifers are.  
3 Just Mr. Evans. I wouldn't want anyone else from the pipeline,  
4 because we have no more faith in them. I think I mentioned that  
5 today, our trust is broken.

6 MR. LAMM: It's not only our land and our  
7 property, it's the Connecticut River and the aquifers there.  
8 It's a natural section and it should be preserved.

9 MR. KRUSE: Mr. Evans would be glad to be the  
10 only Company representative to visit with the Lamms at their  
11 property.

12 MRS. LAMM: Just on the aquifers.

13 MR. IACOPINO: May I ask him just two short  
14 questions on jurisdiction? Do you agree that the laterals are  
15 non-FERC jurisdictional items?

16 MR. MORGAN: No. I believe in my interpretation  
17 of the jurisdiction or non-jurisdiction is that from the main  
18 line point where the tap is going to be at the lateral, all the  
19 way up to the meter station in the mill and the meter station  
20 itself is FERC jurisdiction, from the outlet of the meter  
21 station, that plan's sitting there, they come to me with their  
22 interconnecting piping from their boiler and whatever they have,  
23 any regulation, they have to have in between there, is their  
24 jurisdiction. That's nonjurisdiction.

1                   MR. IACOPINO: So you, to rephrase it, you take  
2 the position that the laterals is not part of the intrastate  
3 pipeline system?

4                   MR. MORGAN: That's correct. It will be  
5 interstate?

6                   MR. IACOPINO: And of course, Mr. Marini disputes  
7 that with you in his testimony.

8                   MR. MORGAN: I guess I didn't read that part of  
9 it.

10                  MR. IACOPINO: Believe me. He disputes it.  
11 That's all I have.

12                  CHAIRMAN VARNEY: Anything else? Okay. Thank  
13 you. We'll continue at 9:00 am. Thank you.

14 (OFF THE RECORD)

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